United States Court of Appeals

for the Second Circuit

APPENDIX

B.

75-1369

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 75-1369

UNITED STATES OF AMERICA,

Appellee,

v.

MILTON PARNESS and BARBARA PARNESS,

Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOINT APPENDIX

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FILED
NOV 24 1975
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

PAGINATION AS IN ORIGINAL COPY

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DOCKET ENTRIES

J 1

CRIMINAL DOCKET
UNITED STATES DISTRICT COURT JUDGE BONSAL

73CRIM. 75

D. C. Form No. 100 Rev.

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	For U.S.: 264-6570
vs.	Harold F. McGuire
MILTON PARNESS (all Cts)	
BARBARA PARNESS (Cts.1,2,4,5,6 &7)	
	10/9
	For Defendant:

(5) STATISTICAL RECORD	COSTS		DATE	NAME OR RECEIPT NO.	REC.	DIST
J.S. 2 mailed	Clerk		9/12/73	State Filing	5	
J.S. 3 mailed ✓	Marshal		9/18/73	Colony Filing	5	
Violation	Docket fee					
Title 18						
Sec. 1961,1962(b),1963 and 2 2314 and 2						
see below						
SEVEN COUNTS						

DATE	PROCEEDINGS
	Engaging in a unlawful Business Actitivity by means means of extort Gambling and Racketeering in interstate and foreign Commerce. (COUNTS 1,2 and 3) Transportating money and securities by means , to devise a scheme to defraud, obtaining money and property by false pretendes, and fraud victum in interstate and foreign commerce. (COUNTS 4 thru 7)
8-2-73	Filed Indictment. (This matter is related to 73 Cr 157)
9-11-73	Defts plead not guilty(atty present). Bail cont'd from 73 Cr 157. Jury trial begun. before Bonsal,J
9-12-73	Trial cont'd.
9-13-73	Trial cont'd.
9-17-73	Trial cont'd.

DATE	PROCEEDINGS
9-18-73	Trial cont'd.
9-19-73	Trial cont'd.
9-20-73	Trial cont'd.
9-24-73	Trial cont'd. Cts.2,3 & 7 dismissed on deft motions. Trial cont'd as to cts 1,4 5 & 6. Bonsal J.
9-25-73	Trial cont'd.
9-26-73	Trial cont'd. Deft rest. motions renewed and denied. Govt. motion to reopen case on cts. 2 & 3 granted. Bonsal,J.
10-1-73	Trial cont'd. Both sides rest. Cts. 2 & 3 dismissed on motion. Bonsal,.
10-2-73	Trial cont'd, cts. 1,4,5 & 6.
10-3-73	Trial cont'd, and concluded. Defts GUILTY. Milton Parness GUILTY cts 1,4,5,6 Barbra Parness GUILTY cts 4,5,6. Pre-sentence reports ordered. 11-15-73 Set for sentence. Bail cont'd. Bonsal,J.
10-26-73	*Filed Transcript of record of proceedings, dated* : SEPT. 12, 13, 17, 19, 1973.
10-26-73	*Filed Transcript of record of proceedings, dated* : SEPT. 20, 24, 25, 1973.
10-26-73	*Filed Transcript of record of proceedings, dated* : SEPT. 27, 1973.
10-26-73	*Filed Transcript of record of proceedings, dated* : SEPT. 26, 1973; OCT. 1, 2, 3, 12, 1
10-16-73	M. PARNESS -filed Mag.'s orig. papers from Dist. of N.H. consisting of docket sheet, correspondence & affdvt.
11-1-73	Filed ORDER that the Court's Finding and Order of 9-5-73, and the supporting papers connected therewith (incl. a notice requesting that the deft M. Parness be treated as a dangerous special offender be unsealed by the Clerk, etc. Ch. J. Edelstein mn
11-9-73	Filed deft's affidavit & notice of motion for a new trial, bill of particulars & granting judgment of acquittal ret. 11-21-73.
11-27-73	Filed Notice that a hearing will be held on 12-7-73 for the ppurpose of receiving evidence as to wheter deft M. Parness should be sentenced as a dangerous special offender, etc. by Govt.
12-4-73	9-12-73. (also in 73 Cr. 157)
12-4-73	9-21-73. (also in 73 Cr. 157)
12-7-73	M. PARNESS- filed Personal Recognizance Bond Pending Appeal in the sum of $150,000.

-cont'd on next page- Page 3

D. C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Judgment
12-7-73	BARBARA PARNESS-(atty present) Filed JUDGMENT- It is adjudged that the deft is sentenced to a term of TWO (2) YEARS on each of counts 4,5 and 6, to run concurrently with each other. Execution of prison sentence is suspended. Deft is placed on probation for a period of THREE (3) YEARS, subject to the standing probation order of this Court and Deft is FINED $2,000.00 on each of counts 4,5, and 6. TOTAL FINE of $6,000.00 is to be paid. Deft is not to be committed for non-payment of fine. Bonsal,J, mn	
12-7-73	MILTON PARNESS-(atty present) Filed JUDGMENT- It is adjudged that the deft is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of TEN (10) YEARS on each of counts 1,4,5 and6, to run concurrently with each other. and deft is FINED $25,000.00 on count 1; $10,000.00 on each of counts 4,5 & 6. TOTAL FINE of $55,000.00 is to be paid. Committed fines. Deft. is cont'd on present bail until 4PM on12-10-73 at which time he is to have rewritten the bond of $150,000. for appeal. Bonsal,J. mn 12-11-73 Issued commitments.	
12-10-73	BARBARA PARNESS- filed unsecured personal recognizance bond pending appeal in the sum of $10,000.	
12-10-73	MILTON & BARBARA PARNESS- filed notice of appeal from judgments ent. 12-7-73. Mailed copies to U.S. Atty, M. Parness & B. Parness & Roy Cohn.	
12-27-73	Filed deft's affidavits & notice of motion granting them a new trial, ret. 1-14-74.	
1-4-74	Filed Letter to Judge Bonsal from Henry E. Petersen dated 9-18-73	
1-4-74	Filed Govt's Trial Memorandum	
1-4-74	Filed Notice of Motion for bill of particulars etc.by the defts.	
1-4-74	Filed Govt's BILL of Particulars	
1-4-74	Filed Govt's Memo in connection with the sentencing of Milton Parness	
1-4-74	Filed Govt's memo in oppostition to Post-Trial Motions	
1-4-74	Filed Memorandum of Law by the Govt.	
1-4-74	Filed Govt's requests to Charge	
1-4-74	Filed Transcript of proceedings dated Dec. 7, 73	
1-4-74	Filed " " " " Oct 18, 1973	
1-7-74	Filed Designation of Exhibits to be tramsmitted to USCA	
1-7-74	Filed notice that the record on appeal has been certified and transmitted to the U.S.C.A. 1-7-74.	
1-11-74	Filed Govt's affdvt in opposition to post-trial motion.	
1-16-74	Filed deft's notice of appeal to the U.S.C.A. from order dtd 1-14-74 denying defts' motions for a new trial. Mailed copies to U.S. Atty, Milton & Barbara Parness.	
1-15-74	Filed MEMO-END. on motion dtd 12-27-73. Motion denied after argument. Bonsal,J. mn	

J 4

73 Crim. 750 US-v- PARNESS

DATE	PROCEEDINGS	Date Order Judgment No.
1-23-74.	Filed stipulation designating the record in 73 cr. 157 be made part of the record to be transmitted to the U.S.C.A in this matter.	
1-23-74	Filed notice that the supplemental record on appeal has been certified and transmitted to the U.S.C.A. [redacted] on 1-23-74.	
2/8/74	Filed notice that the supplemental rec'd on appeal has been certified and transmitted to the U.S.C.A. on 2/8/74.	
2/26/74	Filed supplemental notice that the record on appeal has been certified and transmitted to the U.S.C.A.	
3/25/74	Filed Stip & Order that thebail limits of defts is ext. Puerto Rico & Florida for the dates 3/22/74 & 3/31/74. Bonsal,J. mn	
9/19/74	Filed Stip. & Order that the defts. may travel to Miami, Fla. on 12/25/74,etc. Bonsal,J.	
/22/75	Filed defts.' notice of motion re: new trial,etc.	
/22/75	Filed defts.' memo of law in support of motion for new trial.	
1/28/75	Filed true copy of order of the Supreme Court of the U.S. that the defts.' petition for a writ of certiorari is denied. mn	
1/28/75	Filed defts.' suppl. affdvt. in support of motion for a new trial, or in the alternative for a hearing.	
/31/75	Filed copy of order of the USCA that the judgments of the District Court are affirmed. Clerk Judgment entered Clerk 2/3/75	
3-04-75	Filed defts.' second suppl.affdvt. in support of motion for a new trial.	
3-05-75	Filed affidavit of Joel N. Rosenthal in opposition to deft's motion for a new trial.	
3-05-75	Filed Govt's memorandum in opposition to deft's motion for a new trial.	
3-11-75	Filed affdvt.(suppl.) of Joel N. Rosenthal re: opposition to defts.' motion for a new trial.	
03-17-75	Filed reply affdvt. of Michael Rosen re: answering affdvts of prosecution and further in support of the defts.' application for a new trial.	
5-12-75	Filed deft. M. Parness' notice of motion re: reduction of sentence ret: date to be set by court.	
8-14-75	Filed defts.' reply affdvt. to the second suppl. affdvt. of J. Rosenthal in opposition to deft.'s motion for a new trial and reduction of sentence and further in support of daid appl.	

-cont'd. on next page-

FPI—LK—12-3-63—12M—2946

DATE	PROCEEDINGS
08-27-75	Deft. (atty. John Pollokpresent) application to extend bail limits to Cannes, France granted only for the purpose of attending a convention. Bonsal,J.
9-18-75	Filed transcript of record of proceedings, dated 8-27-75
9-29-75	Filed memo-end. on motion docketed 5-12-75. In view of deft. M. Parness's prior criminal record and it appearing that he initiated the crimes here involved at a time when he was still under parole suprevision deft.'s motion for reduction of sentence is denied. Bonsal,J. m/n
9-30-75	Filed Govt.'s affdvt. re: opposition to defts.' motion for a new trial. dated 7-18-75.
10-09-75	Filed deft. B. Parness's notice of appeal from order of 9-29-75 denying deft. a new trial,etc. (copies sent to U.S. Atty & deft.
10-09-75	Filed deft.M. Parness' - notice of appeal from order of 9-29-75 denying deft. a reduction of sentence.(mailed copies to U.S. Atty and deft.
10-09-75	Filed deft. M. Parness'- notice of appeal from order of 9-29-75 (mailed copies to U.S. Atty. and deft.) .

A TRUE COPY
RAYMOND F. BURGHARDT, Clerk
By [illegible]
Deputy Clerk

J 6 INDICTMENT

HFMcG,Jr.:mel

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

73CRIM. 750

UNITED STATES OF AMERICA :

- v - : INDICTMENT

MILTON PARNESS and :
BARBARA PARNESS, :

Defendants. :

U.S. DISTRICT COURT
FILED
AUG 2 1973
S.D. OF N.Y.

COUNT ONE

The Grand Jury charges:

1. At all times material to this indictment and specifically during the years 1970 and 1971:

(a) St. Maarten Isle Hotel Corporation, N. V. ("Hotel Corp.") was a corporation established pursuant to the laws of the Netherlands Antilles, was engaged in the business of operating a resort hotel and gambling casino, and constituted an "enterprise" as defined by Title 18, United States Code, Section 1961(4), which enterprise was engaged in, and the activities of which affected, interstate and foreign commerce.

(b) From November, 1967 until on or about April 3, 1971, Allen Goberman was the record owner of 226,250 shares, representing 90.5 percent, of the outstanding stock of Hotel Corp.

(c) Olympic Sports Club, Inc. ("Olympic") was a New Jersey corporation, formed in August, 1969 under the name of National Vagabond, Inc. and activated in April, 1970 to organize gambling junkets to the St. Maarten Isle Casino.

(d) Defendant MILTON PARNESS was an owner of Olympic and was principally engaged in organizing gambling junkets to the St. Maarten Isle Casino.

(e) Defendant BARBARA PARNESS (known as Barbara Landew during the years 1970 and 1971) was an officer of Olympic and assisted MILTON PARNESS in servicing gambling junkets to the St. Maarten Isle Casino.

MICROFILM
AUG 3 1973

2. From on or about January 1, 1971, up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, defendant MILTON PARNESS directly and indirectly acquired and maintained an interest in and control of Hotel Corp. through a pattern of racketeering activity, including fraud, extortion and the transportation of stolen money and securities in interstate commerce in violation of federal law, as defined in Title 18, United States Code, Sections 1961(1)(B) and 1961(5), and as hereinafter described

3. The pattern of racketeering activity engaged in and conducted by the defendant MILTON PARNESS included the following:

(a) Beginning on or about April 1, 1970, defendant MILTON PARNESS organized and supervised the transportation of groups of prospective gamblers on gambling junkets from various cities in the United States, principally New York City, to the St. Maarten Isle Casino. As part of this activity defendant MILTON PARNESS collected and caused to be collected moneys belonging to Hotel Corp. These moneys included payments of IOU's, commonly known as "markers," representing losses that gamblers had incurred while playing on credit at the casino.

(b) Beginning on or about September 1, 1970, defendant MILTON PARNESS, operating through Olympic and various other junket organizers, supervised the arrangements for all junkets going to the St. Maarten Isle Casino. The junket organizers from time to time collected moneys due to Hotel Corp., including "markers" from gamblers in the United States, and remitted these moneys to defendant MILTON PARNESS or his representatives. Said moneys belonging to Hotel Corp. were, at least in part, deposited into Olympic's bank account at the National Newark & Essex Bank in West Orange, New Jersey.

(c) On or about October 6, 1970, Allan Goberman, who then owned a 90.5 percent stock interest in Hotel Corp., borrowed $150,000, secured by a pledge of that interest, in order to obtain working capital for Hotel Corp. By January 25, 1971, the loan was past due and the pledge of stock was subject to forfeiture to the creditor.

(d) From on or about December 1, 1970 until on or about April 5, 1971, defendant MILTON PARNESS devised and executed a scheme to defraud Allan Goberman of money and property having a value of $5,000 or more, to wit, Goberman's 90.5 percent stock interest in Hotel Corp., by means of false pretenses, representations and promises.

(e) As part of the above scheme to defraud, from on or about December 1, 1970, until on or about April 5, 1971, defendant MILTON PARNESS collected and caused the collection of hundreds of thousands of dollars belonging to Hotel Corp., including but not limited to marker collections, and deposited some of those collections in Olympic's bank account at the National Newark & Essex Bank, West Orange, New Jersey.

(f) As a further part of the above scheme to defraud, defendant MILTON PARNESS withheld knowledge of said collections from Allan Goberman.

(g) As a further part of the above scheme to defraud, between February 1, 1971 and February 9, 1971, defendant MILTON PARNESS, using Stanley Amsterdam and defendant BARBARA PARNESS as his undisclosed agents, loaned Allan Goberman $160,000 from funds which in reality belonged to Hotel Corp. itself. The purpose of said loan was to allow Allan Goberman to repay his $150,000 debt, plus accrued interest and creditor's legal expenses. Defendant MILTON PARNESS caused the loan to be made to Goberman in the form of cashier's checks as described below, and did not inform Goberman of the source of the funds. As a condition of said loan, Goberman was required to transfer the pledge of his 90.5 percent stock interest in Hotel Corp. to defendant BARBARA PARNESS and Stanley Amsterdam.

(h) On or about February 4, 1971, in violation of Title 18, United States Code, Section 2314, MILTON PARNESS, having devised the above scheme to defraud, knowingly caused and induced Allan Goberman to travel in interstate commerce from New York, New York to West Orange, New Jersey and back in execution of said scheme.

(i) On or about February 4, 1971, in violation of Title 18, United States Code, Section 2314, defendant MILTON PARNESS unlawfully, wilfully and knowingly transported and caused to be transported in interstate commerce from West Orange, New Jersey to New York, New York money and securities of a value of $5,000 or more, to wit, two cashier's checks dated February 4, 1971 in the amounts of $150,000 and $5,000 respectively, drawn on the National Newark & Essex Bank, the funds for the purchase of which cashier's checks included funds that had been stolen, converted and taken by fraud from Hotel Corp., as the defendant MILTON PARNESS then and there well knew.

(j) On or about February 9, 1971, in violation of Title 18, United States Code, Section 2314, defendant MILTON PARNESS unlawfully, wilfully and knowingly transported and caused to be transported in interstate commerce from West Orange, New Jersey, to New York, New York money and securities of a value of $5,000 or more, to wit, a cashier's check dated February 9, 1971, in the amount of $5,000, drawn on the National Newark & Essex Bank, the funds for the purchase of said cashier's check having been stolen, converted and taken by fraud from Hotel Corp., as the defendant MILTON PARNESS then and there well knew.

(k) During the month of December, 1971, as a further part of the above scheme to defraud, defendant MILTON PARNESS caused entries to be made in the books and records of Olympic, describing two checks drawn on Olympic's account at the National Newark & Essex Bank in the amount of $56,000 (dated February 4, 1971) and $5,000 (dated February 9, 1971),

HFMcG,Jr.:mel

as representing disbursements for air transportation expenses. Defendant MILTON PARNESS then and there well knew that said entries describing these expenditures as air transportation expenses were false and fraudulent, and that the two checks drawn on Olympic's account had in fact been used to purchase cashier's checks at the National Newark & Essex Bank as described above.

(l) On or about March 30, 1971, in violation of Title 18, United States Code, Section 2314, defendant MILTON PARNESS, having devised the above scheme to defraud, unlawfully, wilfully and knowingly caused and induced Allan Goberman to travel in interstate and foreign commerce from Philadelphia, Pennsylvania, to St. Maarten, Netherlands Antilles, in execution of said scheme.

(m) Between on or about April 1, 1971 and April 4, 1971, at St. Maarten, Netherlands Antilles, as part of the above scheme to defraud, defendant MILTON PARNESS caused the transfer of Goberman's 90.5 percent stock interest to defendant BARBARA PARNESS and Stanley Amsterdam, the undisclosed agents of defendant MILTON PARNESS, by causing to be drafted and signed a series of six (6) letters which purported to be written and signed over a period of time at different places and mailed in the ordinary course of business, but which in fact were drafted and executed at one time and were not mailed at all.

(n) Between on or about April 1 and July 2, 1971, in violation of Title 18, United States Code, Section 1951, defendant MILTON PARNESS did affect and attempt to affect foreign commerce between the United States of America and St. Maarten, Netherlands Antilles by unlawfully, wilfully and knowingly threatening physical violence to Allan Goberman in order to secure Goberman's signature on a letter dated as of March 17, 1969 in which Goberman acknowledged that he had exchanged bearer notes of Hotel Corp. with a face value

of $3,000,000 for stock in an entity named Global Electronics, Inc. owned by the Development Co., Ltd., Nassau, Bahamas, which stock was in fact worthless.

4. Through the aforesaid pattern of racketeering activity, the defendant MILTON PARNESS did directly and indirectly acquire and maintain a 90.5 percent equity interest in Hotel Corp. and $3,000,000 face amount of Hotel Corp. notes in violation of Title 18, United States Code, Section 1962(b), which interests are subject to forfeiture, subject to the rights and claims of bona fide subsequent investors, if any.

(Title 18, United States Code, Sections 1961, 1962(b), 1963 and 2.)

COUNT TWO

1. Paragraphs 1, 2 and 3 of Count One of this indictment are realleged as if set forth in full in this Count.

2. At all times relevant to this indictment Aliter Holdings, N.V. ("Aliter") was a corporation established pursuant to the laws of the Netherlands Antilles and constituted an "enterprise" as defined by Title 18, United States Code, Section 1961(4), which enterprise was engeged in, and the activities of which affected, interstate and foreign commerce.

3. From on or about December 1, 1970, up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, defendant MILTON PARNESS directly and indirectly acquired and maintained an interest in and control of Aliter through the pattern of racketeering activity described in Count One of this indictment.

4. The means by which defendant MILTON PARNESS committed the offense alleged in paragraph 3 of this Count were as follows:

(a) In or about June, 1971, defendant MILTON PARNESS obtained all the stock of Aliter, in the name of his nominee Edward Levrey, from two attorneys in St. Maarten,

Netherlands Antilles. From May, 1971 through December, 1971, defendant MILTON PARNESS exercised complete control over Aliter, although Edward Levrey was held out as being the nominal owner of 50 percent of Aliter's stock.

(b) Between December 1, 1970 and April 5, 1971, defendant MILTON PARNESS, acting through his nominees (defendant BARBARA PARNESS and Stanley Amsterdam) obtained beneficial ownership of 226,250 shares (90.5 percent) of the stock of Hotel Corp. in the manner and by the means set forth in paragraph 3 of Count One of this indictment, which is incorporated herein by reference as if fully set forth.

(c) During June, 1971, defendant MILTON PARNESS caused defendant BARBARA PARNESS and Stanley Amsterdam to acknowledge in writing that they were nominees for Aliter and to substitute Aliter for themselves as the beneficial owner of said 226,250 shares of Hotel Corp. stock.

(d) On or about July 2, 1971, Aliter became record owner of 226,250 shares (90.5 percent) of the stock of Hotel Corp.

5. Through the pattern of racketeering activity described in this Count, defendant MILTON PARNESS acquired a 100 percent stock interest in Aliter, which interest is subject to forfeiture, subject to the rights and claims of bona fide subsequent investors, if any.

(Title 18, United States Code, Sections 1961, 1962(b), 1963 and 2.)

COUNT THREE

The Grand Jury further charges:

1. Paragraphs 1, 2 and 3 of Count One of this indictment are realleged as if set forth in full in this Count.

2. At all times relevant to this indictment Terrasol Holdings, N.V. ("Terrasol") was a corporation established pursuant to the laws of the Netherlands Antilles and constituted an "enterprise" as defined by Title 18, United States Code, Section 1961(4), which enterprise was engaged in, and the activities of which affected, interstate and foreign commerce.

3. From on or about December 1, 1970, up to and including the date of filing of this indictment, in the Southern District of New York and elsewhere, defendant MILTON PARNESS directly and indirectly acquired an maintained an interest in and control of Terrasol through the pattern of racketeering activity described in Count One of this indictment.

4. The means by which defendant MILTON PARNESS committed the offense alleged in paragraph 3 of this Count were as follows:

(a) In or about May, 1971, defendant MILTON PARNESS obtained all the stock of Terrasol, in the name of his nominee Edward Levrey, from two attorneys in St. Maarten, Netherlands Antilles. From May, 1971 through the date of this indictment defendant MILTON PARNESS exercised complete control over Terrasol, although Edward Levrey and others were held out from time to time as being the nominal owners of Terrasol's stock.

(b) On or about August 20, 1971, defendant MILTON PARNESS caused Terrasol to acquire, in return for the issuance of its own stock to his nominees, 226,500 shares (90.5 percent) of the stock of Hotel Corp. from Aliter and $2,500.00 face value of Hotel Corp. notes from the Development Co., Ltd., which shares of stock and notes had been obtained by fraud and extortion from Allan Goberman as set forth in Paragraph 3 of Count One of this indictment.

5. Through the pattern of racketeering activity described in this Count, defendant MILTON PARNESS acquired a 100 percent stock interest in Terrasol, which interest is subject to forfeiture, subject to the rights and claims of bona fide subsequent investors, if any.

(Title 18, United States Code, Sections 1961, 1962(b), 1963 and 2.)

COUNTS FOUR THROUGH SEVEN

The Grand Jury further charges:

In each of Counts Four through Seven set forth below, paragraph 1 of Count One of this indictment is re-alleged as if set forth fully in each such Count.

COUNT FOUR

The Grand Jury further charges:

On or about February 4, 1971, in the Southern District of New York, MILTON PARNESS and BARBARA PARNESS, the defendants, unlawfully, wilfully and knowingly transported and caused to be transported in interstate commerce from West Orange, New Jersey to New York, New York, money and securities of a value of more than $5,000, to wit, two cashier's checks dated February 4, 1971 in the amounts of $150,000 and $5,000 respectively, drawn on the National Newark & Essex Bank, the funds for the purchase of which included at least $56,000 which had been stolen, converted and taken by fraud as the defendants MILTON PARNESS and BARBARA PARNESS then and there well knew.

(Title 18, United States Code, Sections 2314 and 2.)

COUNT FIVE

The Grand Jury further charges:

On or about February 4, 1971, in the Southern District of New York, MILTON PARNESS and BARBARA PARNESS, the defendants, having devised a scheme to defraud and for obtaining money and property by means of false pretenses, representations and promises, unlawfully, wilfully and knowingly caused and induced Allan Goberman to travel in interstate commerce from New York, New York to West Orange, New Jersey and back in execution of a scheme to defraud said Allan Goberman of money and property having a value of $5,000 or more, to wit, his 90.5 percent stock interest in Hotel Corp.

(Title 18, United States Code, Sections 2314 and 2.)

COUNT SIX

The Grand Jury further charges:

On or about February 9, 1971, in the Southern District of New York, MILTON PARNESS and BARBARA PARNESS, the defendants, unlawfully, wilfully and knowingly caused to be transported in interstate commerce from West Orange,

New Jersey to New York, New York, money and securities of a value of $5,000 or more, to wit, a cashier's check dated February 9, 1971, in the amount of $5,000 drawn on the National Newark & Essex Bank, the funds for the purchase of said cashier's check having been stolen, converted and taken by fraud as the defendants MILTON PARNESS and BARBARA PARNESS then and there well knew.

(Title 18, United States Code, Sections 2314 and 2.)

COUNT SEVEN

The Grand Jury further charges:

On or about March 30, 1971, in the Southern District of New York, MILTON PARNESS and BARBARA PARNESS, the defendants, having devised a scheme to defraud and for obtaining money and property by means of false pretenses, representations and promises, unlawfully, wilfully and knowingly caused and induced Allan Goberman to travel in interstate and foreign commerce from Philadelphia, Pennsylvannia to St. Maarten, Netherlands Antilles, in execution of a scheme to defraud said Allan Goberman of property having a value of $5,000 or more, to wit, his 90.5 percent stock interest in Hotel Corp.

(Title 18, United States Code, Sections 2314 and 2.)

Foreman

PAUL J. CURRAN
United States Attorney

A TRUE COPY
RAYMOND F. BURGHARDT, Clerk
By
Deputy Clerk

J 16

NOTICE OF MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA

-against-

MILTON PARNESS and
BARBARA PARNESS,
Defendants.

73 Cr. 750

NOTICE OF MOTION

----------x

SIR:

PLEASE TAKE NOTICE, that upon the Indictment, the Judgment of Conviction, the Affidavits of MILTON PARNESS and BARBARA PARNESS with the exhibits annexed thereto, both sworn to the day of January 1975, and all other papers and proceedings, heretofore herein, a Motion will be made before the Honorable Dudley B. Bonsal at a time and place to be fixed by the Courtfor an Order pursuant to Rule 33 of the Federal Rules of Criminal Procedure granting the defendant a new trial on the grounds that the testimony of the prosecution's witness-in-chief was false as to material matters; that there exists evidence of material facts not heretofore presented and heard which require vacation of the judgment of conviction and sentence in the interest of justice; that at the time of trial the United States Attorney knew or should have known of material evidence favorable to the defendants which was not disclosed or made available to the defendants; and continuing, the

defendant, Milton Parness, on bail pending disposition of this application and for such other and further relief as the Court shall deem just and proper, including but not limited to an evidentry hearing based on the above described grounds.

DATED: New York, New York
January 22, 1975

Yours, etc.

ROY M. COHN
39 East 68th Street
New York, New York 10021
(212) 472-1400

TO: Paul J. Curran
United States Attorney
United States Courthouse
Foley Square
New York, New York

J 18

AFFIDAVIT OF MILTON PARNESS ANNEXED TO FORGOING NOTICE OF MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA

-against-

MILTON PARNESS and
BARBARA PARNESS,
Defendants.

73 Cr. 750

AFFIDAVIT

----------x

STATE OF NEW YORK)
ss.:
COUNTY OF NEW YORK)

MILTON PARNESS, being duly sworn deposes and says:

I am one of the defendants in the above captioned case. I make this Affidavit in support of my application for a new trial pursuant to Rule 33 of Federal Rules of Criminal Procedure, on the grounds that the testimony of the prosecution's key witness was perjurious as to several material matters; that the same key witness did, subsequent to my conviction, substantially modify his trial testimony; that there exists evidence of material facts not heretofore presented and heard which would probably produce a different verdict; that at the time of my trial, the prosecution intentionally suppressed evidence favorable to my defense and wilfully failed to advise the Court and Defense Counsel that perjured testimony was being given.

1. HISTORY OF THE CASE J 19

On or about August 2, 1973, superseding indictment number 73 Cr. 750 was filed in the Southern District of New York. (See Exhibit I attached hereto.) That indictment charged me with acquiring control in three separate enterprises through a pattern of racketeering in violation of Title 18 U.S. Code, Sections 1961, 1962 ( ), 1963 and 2 (Counts 1 through 3 inclusive). Counts 4 through 7 charged my wife and I with four violations of Title 18 U.S. Code, Section 2314 and 2, which crimes allegedly constituted the individual acts of racketeering, forming the pattern of racketeering charged in Counts 1 through 3. At the conclusion of the Government's case, Counts 2, 3 and 7 were dismissed. At the conclusion of the evidence, I was convicted by a jury on Counts 1, 4, 5 and 6 and my wife was convicted on Counts 4, 5 and 6.

On December 7, 1973, I was sentenced by United States District Court Judge Bonsal to a term of imprisonment of ten years on each count to run concurrently and fined $25,000 on Count 1 and $10,000 on each of the other counts. My wife's sentence of 2 years on each count was suspended and she was placed on 3 years probation and fined $2,000 on each count.

On June 27, 1974, the United States Court of Appeals for the Second Circuit affirmed my conviction ___ F. 2d ___ (Second Circuit 1974). Certiorari was denied on January 13, 1975, ___ U.S. ___.

J 20

THE INDICTMENT AND THE GOVERNMENT'S THEORY OF THE CASE

Stripped of its verbiage, the Indictment charged and the prosecution sought to prove that during the early part of 1971, I obtained control of the St. Maarten Isle Hotel Corporation (Hotel Corp.) which operated a gambling Casino by converting $160,000 in "marker" collections which I made of the Casino's gambling debts; that I thereafter loaned the proceeds of the collections to Allen Goberman, the Casino's principal stockholder in exchange for a pledge of Goberman's stock; and prevented Goberman from gaining access to Casino funds so that he could be reimbursed for the money that he had previously advanced to the Corporation and thus repay the loan to me.*

The mainstay of the government's scenario was Allen Goberman, characterized by the Court of Appeals as "a successful Pennsylvania businessman".

Goberman testified that in 1967 he received an opportunity to invest in the Hotel Corp. which owned an insolvent and partially completed casino complex. After

---

* Counts 4 and 6 which made up the pattern of racketeering activities charged me with causing an interstate transportation of money converted from marker collections on two separate occasions in February 1971. It is the sum total of this money which makes up the $160,000.

Count 5 charged my wife and I with inducing Goberman to travel in interstate commerce in furtherance of a scheme to defraud. New evidence applicable to this charge will be treated separately infra.

arranging for financing, Goberman was able, with the help of the Netherlands-Antillles Government, to complete the Casino, in January of 1970. At that time, Goberman owned approximately 90% of the Hotel Corp. stock.*

After some initial success, the business of the Hotel Corp. and Casino began to decline and it became apparent to Goberman that the financial success of his operation depended on the utilization of gambling junkets originating in the United States.

Consequently, in the Fall of 1970, according to Goberman, he offered your deponent through Olympic Sports Club Inc., the exclusive rights to manage and direct junkets to the Casino.**

Thereafter, according to Mr. Goberman, I assumed the sole responsibility for collecting all of the Casino's outstanding receivables (markers).

Prior to retaining my firm to conduct junkets and collect receivables for the Casino, Goberman arranged for and obtained a short term loan of $150,000 from one Leonard Holzer.

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* A detailed synopsis of the facts of this case may be found in the Decision of the Court of Appeals which is reported at ___ F. 2d ___ (2nd. Circuit 1974).

** As will be discussed infra, Goberman's testimony at trial as to this exclusivity was false. Goberman was in fact conducting his own junkets.

It is my alleged involvment in the re-payment and subsequent assignment of Holzer's loan which was the very core of the Government's case against me. Their theory, propounded exclusively through the testimony of Goberman, was that I withheld $350,000 in marker collection money which was owed to the Casino; thereby forcing Goberman to assign the debt to my nominees and subsequently enabling me to foreclose against him and obtain control of the Hotel-Casino.

In short, the Government contended that $160,000 of the uncollected marker money which I had loaned to Goberman to repay the Holzer loan was in fact converted money and therefore my acquisition through my nominees of the Casino was unlawful.*

On trial, the defense claimed that I did not convert any marker money due to Goberman or the Hotel Corp. However, despite a blistering cross-examination by defense counsel, Goberman steadfastly maintained that the outstanding markers due were $350,000. He arrived at this figure by using Government's Exhibits 167 through 177, which he testified showed $400,000 outstanding and deducting therefrom 10% for bad debts.

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* The $160,000 consisted of the $150,000 principal of the Holzer loan plus $5,000 in accrued interest and an additional $5,000 for Holzer's attorney fees.

At trial Goberman was, however, unable to reconstruct the accounts receivable:

> "The Court: That isn't quite clear, or the answer to the question.
>
> I think the question is whether you, on the basis of these records, sitting here in that witness chair, you can reconstruct that $400,000.
>
> The Witness: I can't reconstruct it without some assistance. There are some more papers some place.
>
> The Court: You couldn't do it as you sit here now without those records?
>
> The Witness: No." (R. 482)*

The fact that this uncollected marker money was at the core of the Government's case is beyond peradventure. The Court of Appeals for the Second Circuit noted this in sustaining my conviction:

> "The record establishes that Hotel Corp. failed to receive approximately $400,000 in overdue marker accounts payable during a period when Parness was solely responsible for and had exclusive control over marker collections. Parness thus had access to vast sums of money due Hotel Corp. and a clear opportunity to have concealed Collections and to have withheld the proceeds." U.S. v. Parness ___ F. 2d ___, Second Circuit (1974).

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* Reference numbers in parenthesis preceded by the letter R. refer to the appropriate pages of the trial transcript.

As will be demonstrated infra., as the prosecution well knew or should have known, the gross accounts receivable described in Exhibits 167-177 amounted not to $400,000 but to $233,000.

J 24

2. THE NEWLY DISCOVERED EVIDENCE & ITS ANTECEDENTS

On or about 1974, Mr. Goberman pursuant to Title 18 U.S. Code 1964, commenced a civil action in the United States District Court for the District of New Jersey, against my wife and I to recover damages. (A copy of the Complaint in that action is annexed hereto as Defendant's Exhibit 2.) His civil action was predicated upon my conviction in the Southern District of New York. During the course of that proceeding (hereinafter referred to as the civil action), Mr. Goberman and one John Blandino, the manager of the Casino were deposed. In those depositions, Mr. Goberman corroborated by Mr. Blandino, substantially modified his testimony with respect to the amount due either the Hotel Corporation or him from your deponent. Based on that testimony (which will be described below) it becomes crystal clear that Goberman committed perjury during the course of my trial in the Southern District of New York, that I did not owe any money to Goberman or Hotel Corp. or the Casino as a result of marker collections, that the prosecution knew or should have known of these facts and suppressed them from the defense.

In short, it is your deponents position that the newly discovered evidence demonstrates that in truth and in fact, I owed nothing to Goberman, the Casino or Hotel Corp. and that the $160,000 which allegedly crossed state lines on February 4th and 9th, 1971 could not therefore have been stolen or converted money from Goberman, the Hotel Corp. or the Casino.

A. THE CIVIL DEPOSITIONS J 25

Not-withstanding his trial testimony that $350,000 - $400,000 was owed, Mr. Goberman on July 31, 1974, began to modify his testimony. In a deposition conducted on that date, he conceded that the $350,000 to $400,000 were gross figures. (Deposition of 7/31/74, p. 46)* Goberman testified that in fact there were three ligitimate deductions from the gross amount of marker pickups. (Ibid, p.48) Those were:

(1) The cost of the player's air fare to the Casino;

(2) 10% of the Casino "win"; and (3) $50.00 per player;

(Ibid pp. 48, 58) and that the figure of $350,000 that he had advanced during the course of the criminal trial did not allow for these deductions. (Ibid, p. 70.) Following this remarkable modification of his trial testimony, Mr. Goberman was re-shown the government's Exhibits 167 through 177 (Exhibits D. 1 through D. 10 in the Civil Action).**

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* Transcripts of Mr. Goberman's Depositions will be made available to the Court in Defendant's Appendix which is being submitted herewith.

** At the juncture, it should be noted that your deponent's position is that the "new evidence" had as its genesis Goberman's concession that several deductions had to be made from the $350,000 - $400,000 amount and not Exhibits 167 -177 in the criminal action and D. 1 through D. 10 in the civil action. Those documents (the Casino work-sheets which show win-loss totals and marker pickups) were used in the deposition to pin-point the deductions, but Goberman's testimony that the deductions were in fact proper came for the first time in the civil action.

J 26 Analysis with Goberman of these exhibits following his concession showed that the allowable deductions amounted to $85,303.00, and more significantly, that the total gross pick-up was $233,346.10 and not $350,000 - $400,000 as originally testified to by Goberman. (Deposition of 9/18/74, pp. 26,28, 33.)

As a result of the modification of Goberman's testimony, my attorneys on November 7, 1974 deposed one John Blandino who was employed as the controller of the Casino from September 1970 until January 1973. (Deposition of 11/7/74, p. 3.) According to Mr. Blandino, his function was to handle the junkets and their credits and to count the money in the Casino on a day to day basis. (Ibid, p. 3.) Mr. Blandino then supplied the formula for determining what money was due from the junketeers, such as myself, to the Casino on gross marker pick-ups for the junkets which we had brought to the Hotel-Casino. (Ibid, p. 6 et. seq.)

Mr. Blandino without contradiction by Goberman explained that a determination was made as to the gross win for the Casino. After computing the amount, the air fare for the various gamblers would be deducted.* The junketeers would then be compensated by taking 10% of the latter amount plus $50 per gambler. The 10% plus $50 per gambler was then deducted from a junketeer's gross pick-up. In addition, the air fare paid by the junketeer would be deducted from the gross pick-up.

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* This deduction of air fare is, according to Mr. Blandino, merely a bookkeeping entry by the Casino to reduce the amount on which the 10% due to the junketeer is calculated.

Mr. Blandino was then requested to analyze each of the Exhibits (167 - 177) (D. 1 - D. 10) to determine the amount of pick-ups actually due from myself or "Olympic" to the Casino or Mr. Goberman.*

The following is a compilation of Mr. Blandino's analysis.

CRIMINAL EXHIBIT 167 - CIVIL EXHIBIT 1

According to Mr. Blandino, the gross win for the Casino as noted in Exhibit 167 was $130,003.00 (Ibid, p. 10.) From that gross win he deducted the air fare which he asserted was standard procedure. This amount, Mr. Blandino calculated to be $13,400.00. (Ibid, p. 12 - 13.) Deducting the air fare from the gross win, Mr. Blandino arrived at a figure of $116,608.00, 10% of which he calculated to be $11,660.80. (Ibid, p. 15.) In addition, Mr. Blandino calculated that there were 67 gamblers noted in Exhibit 167 and at $50.00 per man an additional $3,350.00 should be deducted from the amount owed by the junketeer to the Casino. (Ibid, p.15.) In addition, Mr. Blandino asserted that air fare should be deducted as well. According to Mr. Blandino, the total deductions that the junketeer was entitled to take with respect to Exhibit 167 was $28, 410.00. (Ibid, p. 16.)

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* It should be noted that during the course of the criminal trial the prosecution represented to the court and defense that those exhibits (167 - 177) were all of the papers used by Goberman to calculate the receivables due. (R. 464.)

Mr. Blandino stated that the above amount was deducted from the gross pick-up that the junketeer had to make.*

Mr. Blandino calculated that the gross pick-up with respect to Exhibit 167 was $105,025.00. (Ibid, P. 19.) Therefore, he calculated that the net due to the Casino was $76,614.00. (Ibid, P. 20 -21.) According to Mr. Blandino that is what I would owe to the Casino assuming I could collect it all.

To summarize:

Gross Win to Casino	$130,008.00
Less Air Fare	13,400.00
Net Win to Casino	$116,608.00

Allowances to Junketeer

10% of $116,608.00	$ 11,660.80
67 men at $50 per man	3,350.00
67 men at $200 per man air fare	13,400.00
Total Allowable	$ 28,410.80

Gross Pick-up by Junketeer	$105,025.00
Less Allowances for Junketeer	28,410.80
Net to Casino	$ 76,614.20

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* In most instances the gross pick-up and gross win of the Casino were not the same inasmuch as many gamblers paid at the Casino and it was only those who did not that fell into the "gross pick-up" category; significantly, Mr. Blandino testified that he explained the above formula and deductions to agents of the U. S. Attorney prior to the criminal trial hearing. (Ibid, pp. 23-24, 58-59.) Significantly that information, which is highly favorable to the defense, was never disclosed, this in violation of the rules ennunciated in Brady v. Maryland.

CRIMINAL EXHIBIT 168 - CIVIL EXHIBIT

Mr. Blandino testified that Criminal Exhibit 168 was a "check out sheet" for a New York Junket. According to Mr. Blandino this junket was not in any way related to myself, but a junket run by Mr. Goberman and brought down in conjunction with two individuals named Glasser and Landsman. (Ibid, p. 27 - 29.)* Mr. Blandino categorically asserted that I had no responsibility for picking up any money in connection with this junket. (Ibid, p. 29, 88.) Moreover, Mr. Blandino asserted that the exhibit reflects that Mr. Goberman made his own collections. Goberman agreed with this conclusion. (Deposition of 11/7/74, pp. 88.)

CRIMINAL EXHIBIT 169 - CIVIL EXHIBIT 3

Mr. Blandino testified and Goberman conceded that Exhibit 169 represented a New York junket which left St. Maarten on November 29, 1970. He identified all the handwriting in that exhibit as his own, and identified the junket as that of Mr. Goberman and not myself. (Ibid, pp. 31, 88 - 89.)

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* It should be noted that this is in direct contradiction to the trial testimony in which Mr. Goberman testified that he never ran a junket and knew nothing of the gambling business, and that I had exclusive control over all junkets and marker collections. (R. 24 - 25.)

CRIMINAL EXHIBIT 170 - CIVIL EXHIBIT 4

Mr. Blandino identified Exhibit 170 as check out sheets of a junket similar to the one alluded to above. According to Mr. Blandino, it was a junket which arrived in St. Maarten on December 9, 1970 and left December 13, 1970. According to Mr. Blandino, I was the responsible junketeer for this trip. (Ibid, p. 34 - 35.)

A summary of Mr. Blandino's testimony is as follows and appears at pages 38 through 41 of his deposition:

Gross Win to Casino	$31,839.00
Less Air Fare	9,000.00
Net Win to Casino	$22,839.00

Allowances to Junketeer

10% of $22,839.00	$ 2,283.90
36 men at $50 per man	1,800.00
Total Allowable	$ 4,083.90*

Gross Pick-up by Junketeer	$ 8,500.00
Less Allowances for Junketeer	4,083.90
Net to Casino	$ 4,416.10

CRIMINAL EXHIBIT 171 - CIVIL EXHIBIT 5

Mr. Blandino identified Exhibit 171 as the work sheets for one of my junkets which departed St. Maarten on or about January 3, 1971.

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* Inasmuch as the documents reflected that air fare was paid directly by Mr. Goberman for the gamblers, the junketeer, in this instance, was not allowed to deduct that amount.

A summary of Mr. Blandino's testimony is as follows and appears at pages 42 through 43 of his deposition:

Gross Win to Casino	$79,275.00
Less Air Fare	1,000.00
Net Win to Casino	$78,275.00

Allowances to Junketeer

10% of $78,275.00	$ 7,827.50
5 men at $50 per man	250.00
5 men at $200 per man air fare	1,000.00
	$ 9,077.50

Gross Pick-up by Junketeer	$75,200.00
Less Allowances for Junketeer	9,077.50
	$66,122.50

CRIMINAL EXHIBIT 172 - CIVIL EXHIBIT 6

Mr. Blandino then identified Criminal Exhibit 172 as a compilation of papers similar to the previous exhibit shown to him. He identified the exhibit as the work sheets for one of my junkets which came from Detroit arriving at St. Maarten on December 16, 1970 and departing on December 21, 1970.

Usin the same formula as aforementioned, Mr. Blandino computed the net due to the Casino as follows (Ibid, p. 44 -46):

Gross Win to Casino	$21,329.00
Less Air Fare	8,800.00
Net Win to Casino	$12,529.00

Allowances to Junketeer

10% of $12,529.00	$ 1,252.90
44 men at $50 per man	2,200.00
44 men at $200 per man air fare	8,800.00
Total Allowable	$12,252.90

Gross Pick-up by Junketeer	$ 2,100.00
Less Allowances for Junketeer	12,252.90
Credit Due Olympic	($10,152.90)

Significantly, although there was a credit balance due to Olympic, it was still my responsibility to collect the $2,100.00 noted as Gross Pick-up. In the event that I was unable to collect that marker, I would have had to bear the bad debt. (Ibid, p. 46.)

CRIMINAL EXHIBIT 173 - CIVIL EXHIBIT 7

Mr. Blandino next analyzed Exhibit 173 which he identified as a junket conducted by myself arriving at the Hotel on December 30, 1970 and leaving January 3, 1971.

An analysis of Mr. Blandino's computations is contained on pages 46 through 48 of his November 7, 1974 deposition.

Gross Win to Casino	$ 5,605.00
Less Air Fare	2,200.00
Net Win to Casino	$ 3,405.00

Allowances to Junketeer

10% of $3,405.00	$ 340.50
11 men at $50 per man	550.00
11 men at $200 per man air fare	2,200.00
Total Allowable	$ 3,090.50

Gross Pick-up by Junketeer	$ 0
Less Allowances for Junketeer	3,090.50
Credit Due Olympic	($ 3,090.50)

CRIMINAL EXHIBIT 174 - CIVIL EXHIBIT 8

Mr. Blandino continued his analysis by identifying Exhibit 174 as work sheets for a junket conducted by me which arrived at the Hotel on December 30, 1970 and departed January 3, 1971. Mr. Blandino's computations appear at pages 49 through 51 of his sworn testimony.

Gross Win to Casino	$ 595.00
Less Air Fare	1,200.00
Net Loss To Casino	($ 605.00)

Allowances to Junketeer

10% of -0- (Net Win)	$ 0
6 men at $50 per man	300.00
6 man at $200 per man air fare	1,200.00
Total Allowable	$1,500.00

Gross Pick-up by Junketeer	$ 0
Less Allowances for Junketeer	1,500.00
Credit Due Clympic	($1,500.00)

CRIMINAL EXHIBIT 175 - CIVIL EXHIBIT 8A

Mr. Blandino then analyzed Exhibit 175 which he identified as a check out sheet dated January 4, 1971. Although Mr. Blandino was not clear whether or not I was responsible for this single man junket, his analysis is included. (Ibid, p. 51 - 53.)

Gross Win to Casino	$20,100.00
Net Win to Casino	$20,100.00

Allowances to Junketeer

10% of $20,100.00	$ 2,010.00
1 man at $50 per man	50.00
1 man at $200 air fare	200.00
Total Allowances	$ 2,250.00 (sic.)

Gross Pick-up by junketeer	$20,100.00
Less Allowances for Junketeer	2,250.00 (sic.)
Net to Casino	$17,850.00

It is significant that with respect to this one man junket, Blandino asserted that he knew that the money was never collected. (Ibid, p. 53.) Nevertheless, I have included his computations in re-constructing the amount allegedly due Goberman or the Casino.

CRIMINAL EXHIBIT 176 - CIVIL EXHIBIT 9

Mr. Blandino identified Exhibit 176 as being the work sheet with respect to a junket entitled "skyball" which apparently arrived at the Casino on January 13, 1971 and departed January 18, 1971. (Ibid, p. 53 - 54.) According to Mr. Blandino, the worksheets are in the handwriting of Mr. Goberman.* Assuming that this was my junket, Mr. Blandino, using the same formula as described above computed the net due to the casino as follows: (Ibid, p. 54 - 56.)

Gross Win to Casino	$15,268.00
Less Air Fare	6,900.00
Net Win to Casino	$ 9,368.00

Allowances to Junketeer

10% of $8,368.00	$ 836.80
42 men at $50 per man	2,100.00
42 men at $200 per man air fare	6,900.00
Total Allowance	$ 9,836.80

Gross Pick-up by Junketeer	$18,593.00
Less Allowances for Junketeer	9,836.80
Net to Casino	$ 8,756.20

CRIMINAL EXHIBIT 177 - CIVIL EXHIBIT 10

According to Mr. Blandino, this junket was entitled "Suburban" and arrived at the Hotel on January 13, 1971 and departed January 18, 1971. The handwriting on the worksheets is that of Mr. Goberman. Mr. Blandino then compilated the net due to the Casino as follows: (Ibid, p. 57 - 58.)

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* Despite Goberman's allegation that he never had access to the Casino or the Casino worksheets while defendant allegedly was in charge of all junkets, at the civil deposition it became evident for the first time that Exhibits 176 and 177 (Casino worksheets) were in Goberman's handwriting. This newly disodvered evidence clearly put the lie to Goberman's tria testimony.

Gross Win to Casino	$33,644.00
Less Air Fare	4,485.00
Net Win to Casino	$29,159.00

Allowances to Junketeer

10% of $29,159.00	$ 2,915.90
25 men at $50 per man	1,250.00
25 men air fare	4,485.00
Total Allowances	$ 8,650.90

Gross Pick-up by Junketeer	$ 8,730.00
Less Allowances for Junketeer	8,650.90
Net to Casino	$ 79.10

A summary of Mr. Blandino's testimony relating to these deductions, which was conceded to be correct by Mr. Goberman, therefore shows that after the proper deductions, the amount owing to the Casino, Hotel or Mr. Goberman amounted to $141,245.20 and not the $350,000 to $400,000 as testified to by Goberman at the trial.* The inference is therefore inescapable that when Goberman testified that I had failed to make marker pickups of from $350,000 to $400,000, he was testifying falsely. As will be demonstrated, Goberman's perjury was not limited to the marker collections but involved several other material facts which were critical to the issue of guilt or innocence.

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* Parenthetically, it may be noted that if one adds together the "gross win" of the Casino in each of the Exhibits, one arrives at a figure of $400,000. However, no one ever suggested that I in any way was responsible for collecting the "gross win" of the Casino.

b. GOBERMAN'S PERJURED TESTIMONY

During the course of my trial, Goberman admitted that various marker collections had in fact been remitted to the Casino but that he was unable to obtain access to those funds. According to Goberman's trial testimony, he lost access to the Casino funds some time after February 4, 1971. (R. 102 - 104.)*

Notwithstanding this testimony, Goberman during the course of the deposition taken in the civil action on September 18, 1974 conceded that he or the Casino had received a substantial amount of money from me on "marker" collections between November 16, 1970 and January 14, 1971, a time during which he was in full control of the Casino. These checks, identified as defendant's Exhibits D. 13 through D. 20 in the deposition, prove beyond peradventure that Goberman received in excess of $129,000.00, which he admitted should be credited against the so-called uncollected marker receivables. (These checks are annexed hereto as defendant's Exhibits 3A through 3H.)

In summary these checks show as follows:

3A - Dated 12/10/70 - drawn on the account of Olympic Sports Club, Inc. - Payable to Allan Goberman - in the handwriting of Allan Goberman and conceded by him to have been paid by Olympic for his benefit. (Goberman's Deposition of 9/18/74, p. 5-9) $ 7,800.00

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* This testimony became the keynote of the prosecution's summarion. (R. 1640 et al.)

3B - Dated 12/8/70 - drawn on the account of Olympic Sports Club, Inc. - Payable to St. Maarten Isle Casino - endorsed by John Blandino. Goberman conceded that this check went through the Casino account to which he had access.
(Goberman's Deposition of 9/18/74, p. 9-10)
In this he was corroborated by Blandino.
(Blandino's Deposition of 11/07/74, p. 60 - 61) $10,000.00

3C - Dated 11/16/70 - drawn on the account of Olympic Sports Club, Inc. - Payable to Cash - endorsed by John Blandino and cleared through the Casino account at the Bank of Nova Scotia in St. Maarten. Goberman conceded that in all probabilit the check could have come through the Casino account, particularly since the notation on its face reads "St. Maarten Isle".
(Goberman's Deposition of 9/18/74, p. 12 -13)
Blandino corroborated Goberman's concession and testified that it was he who had written the face of the check.
(Blandino's Deposition of 11/07/74, p. 62-63) $ 7,250.00

3D - Dated 11/24/70 - drawn on the account of Olympic Sports Club, Inc. - Payable to St. Maarten Isle Hotel-Casino - endorsed St. Maarten Isle Hotel-Casino and John Blandino. Goberman conceded that this check was deposited for the account of the Casino.
(Goberman's Deposition of 9/18/74, p. 14)
Again Blandino confirmed Goberman's concession.
(Blandino's Deposition of 11/07/74, p. 64 - 65) $15,000.00

3E - Dated 1/6/71 - drawn on the account of Olympic Sports Club, Inc. - Payable to St. Maarten Isle Hotel-Casino -
Both Goberman and Blandino agreed that this check was used for the benefit of the Casino when Mr. Goberman was concededly in control.
(Goberman's Deposition of 9/18/74, p. 15)
(Blandino's Deposition of 11/7/74, p. 65-67) $15,000.00

3F - Dated 12/31/70 - drawn on the account of Olympic Sports Club, Inc. - Payable to St. Maarten Isle Hotel-Casino - endorsed St. Maarten Isle Hotel-Casino and John Blandino. Although Goberman did not recall specifically if this check was used for the Casino, Blandino testified that the money was used in the Casino. (Blandino' Deposition of 11/7/74, p. 67) $25,000.00

3G - Dated 1/11/71 - drawn on the account of Olympic Sports Club, Inc. - Payable to St. Maarten Isle Hotel-Casino -endorsed St. Maarten Isle Hotel-Casino and John Blandino, and credited to the account of St. Maarten Isle Hotel-Casino. Although Goberman had no specific recollection of this check, (Goberman's Deposition of 9/18/74, p. 17) it is clear from the endorsement that it was used for the account of the Casino while Mr. Goberman was concededly in control. $12,700.00

3H - Dated 1/14/71 - drawn on the account of Olympic Sports Club, Inc. - payable to St. Maarten Isle Hotel Corp. N.V. - Goberman conceded that the check was in his handwriting, that he received the proceeds and that the money was used for the Casino.
(Goberman's Deposition of 9/18/74, p17-18) $37,000.00

Simple arithmetic demonstrates that the total of these checks which Goberman now concedes were used by him personally or for the Casino is $129,750.00. If one deducts these amounts, which were concededly paid by my corporation and myself to Mr. Goberman or to the Casino while he was in control of the Casino, one is left with the following net result:

$141,245.20	(Amount allegedly due on marker collections)
129,750.00	(Checks advanced)
$ 11,495.20	

In addition to the aforestated, Mr. Goberman conceded that during this period of time Mr. Parness gave him $10,000.00 to pay a Mr. Weinberg, which Goberman concedes should also be credited to Mr. Parness' account. Consequently, using Goberman's concessions and in viewing the evidence in a light most favorable to the Government, the total due from myself to Mr. Goberman was $1,495.20.* Mr. Goberman left no doubt that the credits taken above were proper; he thus testified in his deposition of September 18, 1974:

"Q. Assuming, Mr. Goberman, that these checks are what they are, would it be fair and honest to say that your figure of approximately $350,000 which was used at the trial, did not take into account these sums of money that Mr. Parness forwarded to the Island and should have been reduced by that amount?

A. Well, not knowing the use of those checks, I would say that that is a possibility, that those checks should have been credited, if they were used as the endorsements apparently claimed they were used.

Q. Now, did Mr. Parness ever give you $10,000 in the City of New York for a Mr. Weinstein or Weinberg?

A. Mr. Weinberg.

Q. Did he ever give you $10,000 for him?

A. Yes.

Q. He did. Can you tell us when that occurred, approximately?

A. No, I don't remember the date. But I do remember --

---

* This amount does not take into consideration additional credits which Goberman now concedes should be deducted from the gross pick-ups. (Deposition of July 3, 1974, pp. 79 -81) This includes a check from Olympic to the Casino in the sum of $42,000 on January 22, 1971.

Q. Could you tell us where?

A. I beg your pardon?

Q. Where he gave it to you?

A. 1650 Broadway. I asked for $10,000 to give to Mr. Weinberg, who was supposedly getting a six million dollar permanent mortgage on the hotel for me.

Q. And Mr. Parness made these funds available to you, the $10,000?

A. Yes.

Q. Do you know the source of those funds?

A. It was Casino collections.

Q. You knew, at that time, that the funds did come out of the marker collections, did you not?

A. Yes. As a matter of fact --"

(Deposition of Goberman, 9/18/74, p.20 - 21, where Goberman also conceded that each of the checks should have been deducted from the marker collections made by myslef.

Moreover, despite the fact that the indictment charged my wife and I with converting marker collections belonging to the Hotel Corp. (Paragraphs 3a, 3b, 3e, 3g of Count 1 of the Indictment), Goberman's testimony in the civil action left no doubt that those marker collections belonged to him personally, not the Hotel Corp. (Deposition - N.Y., July 31, 1974, pp. 15 - 16; September 18, 1974 Deposition, p. 32.)

In addition to the above, there are several other areas in which Mr. Goberman was deposed. A juxtaposition of that testimony with his testimony given during the course of my criminal trial leads one to the inescapable conclusion that his testimony at my criminal trial was perjurious. However, inasmuch as these matters may have effected Mr. Goberman's credibility rather than a central issue at the trial, I will not belabor this Court with a detailed recitation of that perjury. I am however, ready to prove that perjury in the event that this Court sees fit to grant a hearing on this Motion.

3. THE GOVERNMENT SUPPRESSION OF EVIDENCE FAVORABLE TO THE DEFENDANT

It will be recalled that during the course of the criminal action, Mr. Goberman maintained, despite lengthy cross-examination that the uncollected and unremitted marker collections due him were $400,000. The only deduction Mr. Goberman conceded was that for bad debts which he fixed at 10%. He thus arrived at a figure of approximately $350,000. The Government, however, through its agents, knew prior to the trial that in order to arrive at the net marker collections pick-up certain deductions had to be made. They knew that deductions for air fare, $50 per head and 10% were proper. These facts, which were critically important to the defense, were not revealed to it despite the fact that Federal Agents were aware of them. This assertion is supported by the testimony of Mr. Blandino in his deposition of November 7, 1974:

"Q. By the way, did you ever see that Exhibit before today, before today?

A. To the best of my recollection, I remember, and I can't say the exact time whether it was a year ago, a year and a half ago, I was subpoenaed in St. Maartens by Mr. Campbell. Then I came to New York City and I was downtown with Mr. Campbell, I think his name is Mr. Frazer, a fellow with a mustache and some other individual there.

Q. Mr. Friedman?

A. Friedman, that's his name and some other fellow from the F.B.I. and they showed me some of these sheets and some checks while I was there.

I spent with them maybe an hour and a half and then I left.

Q. Do you recall what you said about these sheets? Did you explain what they were?

A. Yes, just like I explained to you today.

Q. Do you recall whether any of the individuals that were with you took any notes on paper or dictated any notes?

A. No, there was no recorder there, they were making notes and they had sheets prepared to ask me these questions but there was nobody -- there was no recorder there. They did make notes and like I said, they had sheets with question and those were the questions that they asked me.

Q. But can you tell us, and think about it for a minute, you do recall or you don't recall, then somebody making notes based on what you said to them at any time, any governmental agent?

A. Well Mr. Campbell was the one that spent most of the time asking me questions and he was the one that had the questions in front of him and they did -- he did make notes."
(Blandino's Deposition of November 7, 1974, pp. 22 - 24.)

"Q. By the way, Mr. Blandino, can you tell us to the best of your recollection whether each of the exhibits which I have and I admit were painstakingly gone through, did you discuss these Exhibits with members of the Government when you were interrogated in New York?

A. I discussed some of them.

Q. You can't tell me which specific ones?

A. I could never tell you which one. I mean, it's been such a long time.

Q. In discussing them did you go through the type of analysis I've gone through or what did you tell them about these?

A. Well not as detailed as you have gone through it but I just explained the procedures to them of the head money, the ten percent commission and the air and how we arrived at the net figure."
(Deposition of Blandino, November 7, 1974, p. 58 - 59)

Not withstanding the fact that the Agents knew that these deductions had to be taken, they during Mr. Goberman's testimony, failed to advise the Court and defense counsel of his misleading testimony even after the Court inquired as to how he arrived at his figures (see for example, R. 482).

In addition, my counsel and I have now learned that the Government was well aware of the fact that the checks described above were paid to Gobeman and/or the Casino while he was still in control, and yet failed to disclose those facts to the Court or defense counsel.

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Mr. Blandino in his deposition of November 7, 1974, testified with respect to those checks as follows:

"Q. Well what did you discuss with the Government about the checks they did show you?

A. Well I explained to them that I was getting these checks on a weekly basis or whenever the junkets came down and they came down weekly from Olympic Sports in New York and they were pick-ups that were supposed to be made by Mr. Parness and he would send me the checks.

Q. When you told this to the Government Agents do you recall whether they were taking any notes and who those agents might have been?

A. Well I said before that it was Mr. Campbell, Mr. Friedman and another gentleman there from the F.B.I. and Mr. Campbell was the one that spent most of the time with me but Mr. Friedman was the one that showed me the checks.

Q. Do you recall if any of those gentlemen were taking any notes based on your explanation?

A. Mr. Campbell had some papers in front of him, like I said before, and he was the one that had all the questions in front of him and he was making notes*
(Deposition of Blandino, November 7, 1974, p 69 - 70)

I have been informed by my attorney that suppression by the prosecution of evidence favorable to the accused, amounts to a denial of due process of law. I am further informed that the prosecution has a duty to disclose exculpatory evidence without regard to whether any request is made therefore. I now understand that the basis of such obligation is that such evidence is of high value to the defense and could not have escaped the prosecutor's attention.

---

* It is beyond dispute that Campbell's notes of his interviews with Blandino were never disclosed.

In this prosecution, the Government knew the deductions should have been made from the witness pick-ups and the payments were made to the Casino and/or Goberman while the latter was in control. A fortiori, the prosecution knew or should have known that Goberman's testimony with respect to the uncollected markers was false yet they refused to correct it. Under these circumstances, the prosecutor clearly breached his duty to disclose this exculpatory information to the Court and defense.

The Government's conduct in not so advising the Court of Goberman's perjury and the knowledge of his perjury amounted to suppression of evidence and has resulted in a conviction so tainted with perjury that the interests of justice mandate a new trial. The dignity of the United States Government should not permit the conviction of any person on tainted testimony. The conviction of my wife and myself is tainted and there can be no other just result than to accord us a new trial.

WHEREFORE, your deponent respectfully prays that his application be in all respects granted and that he be continued on his present bail pending a hearing and disposition of this motion.

MILTON FARBER

Sworn to before me this
day of January, 1975

AFFIDAVIT OF BARBARA PARNESS

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA

-against-

MILTON PARNESS and
BARBARA PARNESS,
Defendant.

73 Cr. 750

Affidavit

----------x

STATE OF NEW YORK)
ss.:
COUNTY OF NEW YORK)

BARBARA PARNESS, being duly sworn deposes and says:

1.) I am one of the defendants in the above captioned case. I make this Affidavit in support of my application for a new trial pursuant to Rule 33 of Federal Rules of Criminal Procedure, on the grounds that the testimony of the prosecution's key witness was perjurious as to several material matters; that the same key witness did, subsequent to my conviction, substantially modify his trial testimony; that there exists evidence of material facts not heretofore presented and heard which would probably produce a different verdict; that at the time of my trial, the prosecution intentionally suppressed evidence favorable to my defense and wilfully failed to advise the Court and Defense Counsel that perjured testimony was being given.

2.) I have read the Affidavit of my husband and co-defendant, MILTON PARNESS, and join in each and every allegation made therein, insofar as those allegations are applicable to me.

WHEREFORE, your deponent respectfully prays this application be in all respects granted.

BARBARA PARNESS

Sworn to before me this

day of January 22, 1975

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ESSEX COUNTY
DOCKET NO. 74-102

GOUBERMAN

-vs-

MILTON PARNESS

AND BARBARA PARNESS

DEPOSITION OF:
ALLEN N. GOUBERMAN

July 25, 1974
Newark, New Jersey

A P P E A R A N C E S:

ALLAN N. GOUBERMAN, Pro Se

MESSRS. ZUCKERMAN, SAXE, BACON, DOLAN & MANLEY
BY: MICHAEL ROSEN, ESQ.
For the Defendants

ROSENBERG & ASSOCIATES
CERTIFIED SHORTHAND REPORTERS
60 Burnett Terrace
West Orange, New Jersey

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J 50 (Deposition started at 11:25. After being duly sworn the witness testified as follows)

A L L A N N. G O U B E R M A N, Sworn.

DIRECT EXAMINATION BY MR. ROSEN:

MR. ROSEN: Will the reporter make a notation that Mr. Gouberman appears pro se and will be furnished with a copy of whatever transcript results from the deposition.

I'd like the record to note that it's 11:30 in the morning, and Mr. Allan Gouberman has appeared pursuant to notice to take his deposition by the defendants, dated April 26, 1974.

Q Mr. Gouberman, prior to today, except for the time that we met at the District Court in Manhattan during the trial, have we ever spoken?

A No, sir.

Q Attached to the notice to take your deposition, Mr. Gouberman, is a request to produce certain documents. Now, I recognize that you are appearing here without counsel, and I want to assure you that I will be fair and reasonable in whatever I do, without compromising the interest of the defendants in this case.

Now, you were served with a notice pursuant to Rule 34 of the Federal Rules of Civil Procedures to produce --

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A Yes, sir.

Q -- To produce certain records and documents specified in said notice. I tell you, Mr. Gouberman, that it is impossible for the defendants to properly conduct this deposition without having your producing those records. Now I ask you, Mr. Gouberman, whether you have produced all the records called for in that notice?

A No, sir. I have produced no records.

Q Mr. Gouberman, with all due respect to your position as appearing here pro se, I would like to give you an opportunity to produce those records, and I tell you that it is essential for the defendants to have access to them to properly conduct their examination. With your consent, I see no other way to go about this than to put this over for another day in the hope that you will be able to produce these records. I would suggest the date of Wednesday, July 31, 1974, and I would hope that by that time you will produce the documents requested in the notice. Again I say to you that as an attorney, I cannot properly conduct this deposition without having you produce these records; it's impossible for me to do so in light of the allegations you've made in the complaint in this case. So, I don't want to put any undue burdens on you personally. I realize you're not here with an attorney, but I want to be as fair as I can and see if you can produce any or all of the records requested, and my schedule permits

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the date of July 31. If that's acceptable to you, I would adjourn this until such date and hope that you will be able to comply with the notice served pursuant to Rule 34. Is that acceptable to you?

A Yes, sir.

Q I think in order to be very fair, Mr. Gouberman, I would like to indicate to you now that should you be unable to or cannot produce the records requested in the notice, I then, as a lawyer, have to apply to the Court for relief for your failure to do so. Should you not produce the records, without an acceptable excuse, I would be compelled to apply to the Court for whatever relief is available under the Federal Rules of Civil Procedure. Would the record reflect that upon consent of Mr. Gouberman and Counsel for the defendants, the examination of Mr. Gouberman is adjourned until July 31,1974 at 11:00. I'd like the record to further note, Mr. Gouberman, it's a bit unusual for me to conduct such a proceeding, but most respectfully I would prefer that you and I not communicate, although if you do want to communicate with me, I would ask that it be placed on the record so that your interests are protected, because you don't have a lawyer to represent you.

A May I make a statement along those lines?

Q Yes, sir.

A First of all, not only am I appearing without counsel, but I have, on July 22nd, mailed to Judge Vincent Biunno,

a motion for leave to proceed in forma pauperis, and I indicated that I could not pay any costs, if any costs were involved.

Q Mr. Gouberman, did you furnish my office with a copy of that motion?

A No, sir.

Q If you have a copy, would you be kind enough to furnish me with a copy, and if you don't have a copy, would you furnish it when you return next week?

A I have another copy here. I'll give you that one.

Q I acknowledge receipt of said motion and again, Mr. Gouberman, to protect your rights as well as the rights of the defendants, I would request that during the pendancy of this proceeding, should you want to communicate with Counsel for the defendant, I would most respectfully ask you to make that communication either in front of the court reporter or in writing with a copy to His Honor, who has been assigned this case. I assure you that any communication that I might want to have with you, as a party to this law suit, I will do either in front of the court reporter or in writing with a copy to His Honor. If there's any question before you leave or problems that you have, I would ask that you ask them while the reporter is here; so that there will be no problem of talking off the record.

A Well, I do have something to say about the fact that I didn't

bring the records, and I will do the best I can to have them here by next Wednesday.

Q Mr. Gouberman, I acknowledge receipt of a copy of a subpoena which you served upon the United States Attorney requesting certain records, and I also acknowledge receipt of the United States Attorney's response to that subpoena. I just advise you that -- notwithstanding the United States Attorney's position in the matter -- you have instituted this law suit and I think most respectfully it is your burden to come up with whatever documents are necessary to be produced during the litigation, and again I urge you if you cannot afford a counsel, I will urge that you make every reasonable attempt to ask His Honor to get you counsel, or ask the Court to assist you with whatever problems you may have.

A I was advised by Judge Biunno's clerk, to do my best to get counsel, and he recommended that I contact a bar association in Essex County, which I did, at 92 Washington Street, Newark. They referred an attorney by the name of Samuel Wolf, 46 Branford Place, and after discussion on the phone, he wrote me a letter stating he would need a fee of $2,000.00 at the beginning, and not having the money I couldn't employ him as my counsel, and I so advised the judge's clerk, that I did my best to get counsel and couldn't do it. If you wish, I will give you a copy of this letter.

Q I acknowledge receipt of a copy of the letter

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dated June 1, 1974 from the law offices of Samuel Wolf, addressed to Mr. Gouberman, which does say that Mr. Wolf quotes in advance of $2,000.00. I must say for the record that I have not received a copy of Mr. Gouberman's alleged communication to the Court concerning this, and if Mr. Gouberman has a copy, I would respectfully request that you furnish me with it, and again I urge that any time you communicate with the Court, kindly send me a copy and any time you wish to communicate with me as Counsel for the defendants, kindly do so in writing with a copy to the Court. Now, I do not have any intention of speaking to you personally since you are not represented by counsel unless it is done either on the record, or before the Court, or in writing with a copy for the Court.

A I would do the best I can to comply with your request.

Q I acknowledge receipt of a communication from the Essex County Bar Association dated June 10, 1974 concerning a referral of Mr. Gouberman to Samuel Wolf. For the record, Mr. Gouberman, I appreciate your predicament, but I reserve the defendants right to move for costs for your failure to produce documents requested, which necessitated the adjournment of these proceedings. For the record, Mr. Gouberman has just handed me a handwritten letter on his personal stationery dated June 23, 1974 to a Kevin March, law clerk to Judge Biunno, wherein Mr. Gouberman reports that it is quite apparent

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that he will not be able to afford counsel, and is ready to go to trial and ask for a trial date. Mr. Gouberman, again to be fair to you I think I should advise you that while you may be ready to go to trial, it is the position of the defendants that they are entitled under the Federal Rules of Civil Procedure to conduct a pre-trial discovery proceeding, and the defendants intend to avail themselves of every discovery device permitted by the Federal Rules, and have a right to do so as expeditiously as possible, but while this deposition has been delayed upon your request and upon our acknowledgement of your personal problems, I wish to advise you that under all the circumstances in this case and to protect the interest of the defendants, I will be unable to consent to any further delays, and I want to get the discovery started and completed so that we too can go to trial. So with that in mind I urge you to either seek advice or obtain the documents on your own that I need to conduct your deposition. If there's nothing more, I'd like the reporter to note that this session is adjourned until the date stated above.

* * * * * *

CERTIFICATE

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I, Colin Duffy, a Shorthand Reporter of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the deposition of Alan N. Greenberman, who was first duly sworn by me, at the place and on the date hereinbefore set forth.

I further certify that I am neither attorney nor counsel for, nor related to nor employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in the action.

Colin Duffy

COLIN DUFFY

Malivuk
8/16/74

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CIVIL ACTION No. 74-182

ALLAN N. GOBERMAN,

-against-

MILTON PARNESS and
BARBARA PARNESS

DEPOSITION OF:

WILLIAM F. HAMILTON
ALLAN N. GOBERMAN

July 31, 1974

A P P E A R A N C E S:

MR. ALLAN N. GOBERMAN (Pro Se)

MESSRS. SAXE, BACON, BOLAN & MANLEY
BY: MICHAEL ROSEN, ESQ.
of Counsel
Attorneys for the Defendants

JOHN J. KOLLAR, C.S.R.

ROSENBERG & ASSOCIATES
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West Orange, New Jersey 07052
Phone: 678-5650

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(Before John T. Kollar, a Notary Public of the State of New Jersey, taken at the office of Herbert L. Zuckerman, Esq., 60 Park Place, Newark, New Jersey, commencing at 11:30 A.M.)

MR. ROSEN: This is the resumption of an adjourned examination of the plaintiff in this action, Allan N. Goberman, by the defendants. However, I would ask Mr. Goberman, who appears here pro se, whether he would consent to allow me to take a brief deposition of Mr. William Hamilton, so that Mr. Hamilton can go back to his business. And I would like to advise Mr. Goberman that he has every right to make objections and to cross-examine the witnesses that are called in these depositions.

Mr. Hamilton appears here upon the request of the Defendants, and for the record I did not have available to me a subpoena in the United States District Court for the District of New Jersey. But in any event, Mr. Hamilton has agreed to appear here and be deposed and with Mr. Goberman's consent, I would like to take care of Mr. Hamilton.

MR. GOBERMAN: I have no objection. I

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wouldn't know what to object to anyway.

MR. ROSEN: Well, that's the problem we have, Mr. Goberman, since you don't have a lawyer.

MR. GOBERMAN: Right.

MR. ROSEN: And I regret it.

MR. GOBERMAN: I have no objection to you bringing this gentleman in as a witness.

WILLIAM F. HAMILTON, 128 Central Park Street, New York, New York, Sworn.

DIRECT EXAMINATION

BY MR. ROSEN:

Q Mr. Hamilton, what is your occupation?

A I am an attorney at law.

Q And what was your occupation in February, 1971?

A I was an attorney at law at that time.

Q I want to direct your attention to February of 1971, and the events surrounding the discussions between Mr. Parness and Mr. Goberman, relative to the St. Maarten Isle Hotel. Are you tuned into this time frame and those events, sir?

A I recall in January and February, 1971.

Q Let me ask you initially did you represent as an attorney either of the two gentlemen I just mentioned?

A I represented Mr. Goberman at that time.

A During a period of extension time somewhere near the middle of February we finally negotiated a settlement of the action.

Q I direct your attention, Mr. Hamilton, to February 4, 1971. With that date in mind, do you have any recollection of any papers that were drawn, documents that were had between, by and between Mr. Goberman and Mr. Parness, concerning the resolution of the problem with Mr. Holzer's action?

A I recall I drew maybe two or three papers and it was prior to, the first one was prior to February 4th.

Q Let me try to pinpoint it a bit. I know it was several years ago. Were there conversations between Mr. Parness and Mr. Goberman in your presence concerning the situation revolving around the hotel and the $150,000 loan from Mr. Holzer to Mr. Goberman?

A Yes, there were.

Q Would you search your recollection if you can and tell us what the initial conversations were relative to satisfying Mr. Holzer's demand for the $150,000?

A Well, to the best of my recollection, towards the end of January, I was called in to meet Mr. Goberman and in Mr. Parness' office at 1650 Broadway, and I was shown the summons and contact in the foreclosure of the pledge action and asked to read it and study it. Then there was a

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Q And what was this in connection with, sir?

A It was an action by a man by the name of Leonard E. Holzer, somewhere in Upper Broadway, New York, to foreclose a pledge of stock and to collect the money that was granted on the pledge and that was the stock of the St. Maarten's Hotel Corporation, and the action had been brought for the foreclosure and the collection of the sum of $150,000 plus some interest around $3,000, plus, by the law firm of Willkie, Farr and Gallagher, the asociate being in charge, Lawrence Faigan, representing Mr. Holzer.

And the action had been brought in the Supreme Court, New York County. I was asked to appear and defend or get a postponement preferably of the action so that there would be an opportunity to treat with the overdue sum of $150,000, plus interest.

Q Let me interrupt you, sir, for a minute. Would it be fair and honest to say that your duties were in the main, to attempt to delay this action?

A That was the primary duty.

Q And whatever actions you took on behalf of your client, Mr. Goberman, was in that respect; is that correct?

A That's right, to delay.

Q Now, did there come a time, sir, that the litigation that you just referred to was settled or abated and a stipulation or settlement was effectuated?

J 64

discussion between Mr. Goberman and Mr. Parness on how this could be taken care of. Mr. Goberman said he was unable, I think before the date when payment was due, which was the fourth, unable to raise the money. He said he had other problems with creditors and so forth and it was difficult. But he had a negotiation going where he thought he could raise the money in a few days-- I remember the words "a few days" distinctly. And Mr. Parness said something about, questioning about the few days and then he said "Well, I can somehow arrange," he didn't make clear how he was going to do it, "that you will have the amount of money of $150,000, to redeem the stock with the understanding that the loan will be for a few days."

Q Did there ever come a time, sir, that papers were drawn reflecting the fact that monies would be advanced to take care of Mr. Holzer's obligation?

A There were. But first I drafted a letter under which I was to hold the stock, if and when redeemed, then I started to draft an agreement under which the rest of the stock would be assigned and sent over to Mr. Parness.

We got together on those papers and discussed it and it was decided that this would not be appropriate for either party, first Mr. Parness had some problems he didn't want to get entangled somewhere in the past, he didn't want to have the transaction entangled with it, or have them come

J 65

up and Mr. Goberman said he might have some problems too because he was concerned about his name appearing on any document that would show that he had any money or any property when he had people after him who might discover it, and he meant creditors I'm sure, because I listened and he seemed to have plenty of problems in that direction. I don't remember the exact words that Mr. Goberman used in describing the creditors, but he said he didn't want to have his name appear and the assumption was that with my name on half of the stock I would be holding for him as his attorney.

So we decided to draw up a different kind of an agreement which I think you have in the form of the agreement. It was around February 4th, is the date I just saw, I believe and I recollect, whereby neither name would appear in the transaction.

Barbara Landew and Stanley Amsterdam would appear as lendors of the funds, which would be made available through cashier checks at the National Newark & Essex Bank in West Orange, plus an attorney's fee to take care of Willkie, Farr and Gallagher, against a transfer of the entire amount of stock as collateral to be held for the few days that it might be necessary for Mr. Goberman to raise the money to redeem the stock. That's in essence the purpose of the agreement.

Q Let me ask you this, Mr. Hamilton, from your

J 66

your personal observations and what you actually saw and heard during these meetings or meeting, did Mr. Goberman understand what was going on?

A Well, my impression is he understood very well because he went over all the documents that I prepared and the agreement, word for word. He read it carefully, and I recall that he read even the second agreement, in my presence, although I don't recall when it was signed. He did read it. And we discussed the provisions of the first drafts and the final draft, very thoroughly.

Q Was there a discussion about the authorities in St. Maarten objecting to Mr. Parness' prima facie involvement in this enterprise by Mr. Goberman, did he mention anything to your recollection?

A I have a vague recollection that probably came up during the discussion because that was one of the points involved, keeping Mr. Parness out, his name out of the agreement.

Q Based on your observations and what you heard at the meeting or meetings, could you state with any degree of certainty, whether Mr. Goberman knowingly and with intention to do so entered into this agreement?

A The agreement exactly as I drew it and exactly as he read it and all the provisions were discussed. I think there's no question of what he must have understood, what he

read and what we discussed.

J 67

Q Would it be fair and honest to say that Mr. Goberman was as much in favor of what was happening, what was designed, as Mr. Parness?

A I would say so. He expected to repay the loan in a few days, I think February 8th or something like that. A few days I would say, within a week anyway.

Q Based on your observations and what was heard at these meetings or meeting, would you say that Mr. Goberman was fully aware that Barbara Landew and Stanley Amsterdam would act on behalf of the parties to the agreement, let me withdraw the words "parties to the agreement", were acting on behalf of Mr. Parness?

A All this was never told to me in so many words. It was quite obvious that that was the intent.

Q In your discussions with Mr. Goberman and Mr. Parness, was there anything that you observed which would indicate to you that Mr. Parness was trying to hide his actual participation in this matter?

A Not from Mr. Goberman. Only he didn't want his name on the agreement. He didn't want it to be know that he was on the agreement.

Q Let me ask you something about February 4th, again. Did there come a time that you went to New Jersey to pick up certain checks?

J 68

A Yes. But I don't remember whether it was that date or a subsequent date.

Q You do recall going to New Jersey to pick up certain checks?

A Yes.

Q Now, would that be for a bank in West Orange, New Jersey?

A Yes, National Newark and Essex Bank.

Q With whom did you travel to New Jersey?

A With Mr. Goberman, and the attorney for Mr. Holzer, Mr. Lawrence Faigan from Willkie, Farr and Gallagher.

Q Tell us what, if anything, you recall that Mr. Parness had to do with the actual trip that you made with the two people you mentioned to New Jersey.

A Other than stating that the checks were drawn over there he had nothing to do with the trip to New Jersey. I went to his office and Mr. Goberman waited for me and we both went down to Mr. Faigan's office. Mr. Faigan suggested for his client's sake he would like to go right out and get the checks and he hired a limousine and Mr. Goberman thought it was a good idea and we all took a ride. We took a ride to West Orange to get the checks.

Q Did Mr. Parness advise or suggest or counsel that you make this trip in any way?

A I don't recall he said anything, other than having, at

J 69

least I heard that he said the checks were ready or were prepared or something like that. He didn't say to go get them or arrange any trip to go get them.

Q Mr. Hamilton, did there come a time that prior to this journey to New Jersey, that checks from the New Jersey bank were issued in the name of Mr. Goberman?

A Something was told to me to that effect, but I wasn't personally aware of it.

Q Do you have any recollection as to whether or not Mr. Faigan would accept checks made out to Mr. Goberman?

A Mr. Faigan told me he would not. They must have been made out to his law firm.

Q And is it not a fact that even the checks that were picked up by yourself or Mr. Faigan or Mr. Goberman in New Jersey were incorrectly made out?

A I think the name of Willkie had one "l" in it and it should have two "l's" if I recall correctly, and they had to go back and have it rewritten.

Q Would it be fair and honest to say--

A The next day.

Q --that ultimately checks that were used to satisfy the Holzer claim were obtained without any participation in that situation by Mr. Parness, to your knowledge?

A Well, in the sense that he had nothing to do with going after them, I would say yes.

J 70

MR. ROSEN: I have no further questions. If Mr. Goberman-- Mr. Goberman, you have every right to ask Mr. Hamilton anything that you like, but I would respectfully suggest that it should be linked basically to what he has already testified to or in the area concerning the complaint in this case. I will make no objections to anything you want to ask him that you might think is important to pursue your complaint in this case.

MR. GOBERMAN: I have no questions to ask him.

MR. ROSEN: Then, Mr. Hamilton, I thank you for making the trip to New Jersey here today.

THE WITNESS: You're welcome.

(Witness excused.)

ALLAN N. GOBERMAN, previously sworn.

MR. ROSEN: For the record, Mr. Goberman was previously sworn.

DIRECT EXAMINATION

BY MR. ROSEN:

Q Mr. Goberman, since you are not accompanied by a lawyer or are represented by a lawyer, I think it is my duty to advise you that the nature of this proceeding is to conduct an examination relative to the allegations you have

J 71

made in a complaint filed in the United States District Court, for the District of New Jersey. Let me ask you this, are you the plaintiff in an action entitled "Allan N. Goberman against Milton Parness and Barbara Parness, Civil Action No. 74-182," of 1974, filed in the Federal Court, for the District of New Jersey?

A Yes.

Q And do you reside at 104 Village Green Lane, Lancaster, Pennsylvania?

A Yes.

Q Are you alleging that this action has life and vitality pursuant to a section of the law known as 18 USC, Section 1964?

A Yes.

Q Now, Mr. Goberman, did you file this complaint in your own handwriting, pro se?

A Yes.

Q Is it your position, Mr. Goberman that the defendants in this case, Milton Parness and Barbara Parness, are indebted to you in the sum of $13,950,000 and that you have suffered such damages by actions of the defendants?

A I don't quite understand that question.

Q I will try to reframe it. Have you in your complaint, which I have just referred to, demanded judgment in the amount of $13,950,000, against the defendants?

J 72

A Yes.

Q And is it not a fact that that figure is three times the amount of $4,650,000, which you claim is your actual damages as a result of the actions of the defendants?

A That is correct.

Q Now, is it further your position in this lawsuit that during the years 1970 and 1971, the defendants owed to you personally, Allan M. Goberman, the sum of $650,000?

A Would you ask that question again, please?

MR. ROSEN: Read the question, please.

(The pending question is read back by the Reporter)

A I believe that's what I have in my complaint, in Number 8, is that what you are referring to?

Q That is what I actually read from.

A If I have it in my complaint, I must have felt or must feel that that is so.

Q Now, is it not a fact that you were the owner of stock in a Netherlands Antilles corporation, named the St. Maarten Isle Hotel Corp., N.V.?

A Yes, I owned stock.

Q And was that stock that you owned approximately 90% of the outstanding stock of such corporation?

A Yes, 90 and a half percent.

Q And is it not also a fact that that corporation owned a piece of property in St. Maarten, upon which was

J 73

situated a hotel, called the St. Maarten Isle Hotel?

A That is correct, sir.

Q Now, is it not also a fact that on that property, was a gambling casino?

A That is correct.

Q And I will ask you whether or not to your knowledge, gambling is legal on the islands of St. Maarten?

A I would say gambling is legal on the island of St. Maarten.

Q Is it not also a fact, Mr. Goberman, that you had a license to operate that gambling casino on the island?

A Yes, as an individual.

Q Was that license in writing or was it verbal?

A No, it was verbal.

Q And by what authority was that license bestowed on you?

A By the authority of the government of the Netherlands Antilles located in Curacao.

Q Mr. Goberman, would you tell me in your own words what relationship you as licensee had to the casino, what was your position, vis a vis the casino as the licensed operator? If you don't understand any questions--

A I believe I understand. The question, as I understand it, as the licensee of the casino, what was my job?

Q What was your job, what were your obligations,

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what were you entitled to and what was your authority over the casino?

A I was responsible for all actions in and or of the casino.

Q Did you have a contract with St. Maarten Isle Hotel Corporation for this casino?

A Yes.

Q So would it be fair and honest to say, if you can give me this answer, that hotel corporation was not the owner or the licensee of the casino?

A That is correct. No corporation under the laws of the Netherlands Antilles can own a license per se. The license has to be issued to an individual.

Q So would I also be correct in understanding if there were any liabilities of the casino they would be yours personally?

A Yes, I would be responsible for them.

Q And if there were any benefits to accrue out of that casino, profits, anything in that line, they would be attributable to you personally?

A That's right.

Q And not for the hotel corporation?

A No, sir.

Q Now, but is it not also a fact Mr. Goberman, that the casino would, from time to time, afford certain

J 75

funds to the distinct entity, which was the hotel corporation, to assist in its operation of that hotel corporation?

A Well, I don't think I would quite put it in that manner.

Q Put it any way you like, sir.

A The casino, which was running junkets, would owe money to the hotel corporation for the delivering of the rooms and board to people who came down on the junkets.

Q So, for example if there were 100 people at the hotel, or 100 rooms were occupied at the hotel, and players at the hotel would lose money at the casino, the casino would pay the hotel for the room and board of those players?

A If they were brought down on a junket and they were promised that. A player that came down a potential player, came to the hotel on a junket, was induced to come by the offer of free room and board.

Q Would that include the room, the meals, the alcoholic beverages and any of the other amenities of the hotel?

A Yes.

Q In other words, a player who would come down on a junket would actually have to spend nothing to maintain himself if he played on the junket?

A Very little, he would have to spend very little.

Q Now, would a player be permitted to bring friends or family along on the junket?

J 76

A In some cases they would.

Q In your experience from your personal observations, were most players men or women, the players that were on the junkets and were solicited to come down?

A I would say men.

Q And in your experience, did the men bring their wives and children more often than not?

A I can't, at this time, give you a clear answer to that.

Q But certainly there were a great number of occasions when families accompanied--

A Well, I don't want to use the word "great", either. There were occasions where they would, and to pin me down for a ratio right now, I couldn't clearly answer it.

Q Let me ask you this, sir, the junkets took place during the holiday season, Christmas or Easter, the winter months?

A Yes, those types, during holiday seasons, they would bring wives and children along. But that was just a part of it.

Q Would it be fair and honest to say that more than 50% of the players during those holiday seasons, for example, would bring their families with them?

A I can't honestly give you a percentage right now.

Q Now, you know Milton Parness, do you not?

A Yes, sir.

Q And you know Barbara Landew Parness? J 77

A Yes, I do.

Q Tell us, if you can, briefly, when you met Mr. Parness, and how if ever, you entered into any business relationship with him relative to St. Maarten Isle Casino?

If that's too broad, Mr. Goberman--

A Yes, it is because I'll tell you why. Since all this has occurred, I have had a lot of other situations that have arisen and it might make it a little difficult for me, without notes, to remember dates, and names, or some of the things you are asking me.

Q Mr. Goberman, if you will recall last week I had asked you whether you had supplied or produced--

A I want to get to that.

Q --certain records which I had asked you to produce or demanded that you produce pursuant to written notice. Have you produced those records?

A No.

Q I'm sorry, I don't hear you.

A The answer is no and you interrupted me, in my other answer to you because I was going to enter that in what I was saying. I was going to call your attention--

Q I don't want to restrict you in any way to any other matters, I just want-- I'm going to limit you. Say what you want to say, but I want you to try to answer my

J 78

question.

A I didn't bring anything more with me than I had the last time I was here. Because--

Q Well, I'm not interested in because, because I am not going to stop you since you don't have a lawyer present, but for the record I'm going to object to any because, but you may be free to go ahead and explain it.

A You are aware and I believe I gave you copies of letters and so forth that I have made efforts to have the U.S. Court give to me certain exhibits, papers. I wanted a transcript of the trial. I wanted some tapes that they had taken of mine and so forth. I believe I did give you a copy of that letter.

Q Yes, sir, you did. I don't know if it is a letter, but I believe you gave me a copy of a subpoena.

A Well, let me say that there are many other letters written before, along those lines, before I tried to subpoena these records. You have the copy of the subpoena. You have the copy of the letter I got from the U.S. Attorney and I have just been unsuccessful in getting anything from them.

Q Mr. Goberman, it's going to be virtually impossible to conduct an intelligent examination without those records, but I'm going--

A Perhaps you can get them. I can't get them.

Q You are the plaintiff in a civil case, you

brought this case.

A Yes, sir.

J 79

Q My job is to defend this case. I'm going to advise you that it's your responsibility to produce these records or to give a reasonable explanation why they are not obtainable. I certainly, now that you have indicated you cannot produce them, will make whatever efforts I can to obtain them. But in any event, it might be necessary to ask you to come back again in the event I can get these records. I am entitled, I submit to you, I am entitled to a thorough examination since this is a most serious complaint you have made and for the record I want the record to note that Mr. Goberman, and if I'm incorrect, you tell me, has failed to comply with a request for the production of documents made pursuant to Rule 34 of the Federal rules of Civil Procedure.

I'm going to go ahead as best I can, Mr. Goberman, and I will show you certain copies of papers which were furnished to us upon the criminal trial by the government as potential exhibits and perhaps I can work from them, and get the information I think is required.

Now, Mr. Goberman, have you ever heard of--

A Before you start on this, I want you to know that I haven't stopped making further efforts to secure these records and I will continue doing so to try and get them. Go ahead.

J 80

Q Mr. Goberman, did you ever know of a business or enterprise or operation called Olympic Sports Club, Inc.?

A I knew something about it, yes.

Q Well, is it not a fact that you knew everything about Olympic Sports Club pertaining to the fact that this was Mr. Parness' operation?

A That is part of something that I know, as far as I remember that.

Q As a matter of fact, you knew that Olympic had offices at 1615 Broadway in the city of New York; is n't that so?

A Yes.

Q And is it also not so that with Mr. Parness a New York office of the St. Maarten Isle Hotel Corporation was opened up in the same place?

A Yes.

Q Was there ever any doubt in your mind that Mr. Parness was the operator and figure involved in the Olympic Sports Club?

A No, I realized that Mr. Parness and Olympic were synonomous.

Q Is it also not a fact that certain papers would come down to the hotel which specifically stated on a particular junket Olympic, Parness, right on the paper?

A Yes.

J 81

Q Now, I want to just develop a little background and ask you about the loan.

A Which loan, sir?

Q Is it not a fact that Mr. Parness, some time in late 1970, after Mr. Holzer had made demands upon you for payment of this $150,000, went to Mr. Holzer and attempted and did in fact obtain an extension of the time for you personally to pay that loan?

A I was with Mr. Parness when he went to Mr. Holzer's office.

Q Were you present when there was any discussion between Mr. Parness and Mr. Holzer?

A Yes, I was.

Q And is it not a fact that Mr. Parness asked Mr. Holzer to give you more time to pay it?

A I believe so. I can't remember exactly, but I believe so.

Q And is it not a fact that Mr. Holzer did in fact grant you an extension of time to, I believe, the middle of January, 1971, to pay your obligation to him?

A I don't remember those facts exactly. But I believe there was an extension. I don't have any records with me so I'm going to try to get it off the top of my head. That's the best I can do. I believe his first request for the payment of $150,000 was that it was to be paid in the

J 82

latter part of December. And if as you are telling me, and if-- I stated that I was in Mr. Holzer's office with Mr. Parness, an extension had to be given because he didn't foreclose in December.

Q Did anyone else other than Mr. Parness to your knowledge, secure that extension for you?

A I don't remember.

Q Now, I would like you to do your best for the next period of time, Mr. Goberman, to focus on a time frame of approximately October, 1970, to about the end of January, 1971, a period of three to four months and I'm going to ask you certain questions concerning junkets which came down to the hotel or to the casino, and I'm going to try to get you to tell me how you arrived at certain figures which are contained in your complaint and if you have any questions or if you are not sure of what I am asking you, I would like you to voice them and I will try to make it as clear as possible.

Now, as general background, Mr. Goberman, when a junket comes down to St. Maarten do the players or their families pay for their own airfare?

A No. It is part of their deal.

Q And does the junketeer who brings that junket, get any percentage of monies that might be lost by his players at the casino?

A I believe it was ten percent, yes. J 83

Q And does the junketeer also get a certain fixed price, per player?

A To my best recollection, there were times that they got $50 a man and there were times that it was dropped but I would say generally speaking, that they received ten percent of the players' losses and $50 I think the term was "a head" for each man.

Q Now, is is also a fact that if a player did come down with his wife, the wife's airfare was borne by the player and not by the hotel, or the casino?

A I believe you are correct there, yes.

Q So if I went down to the hotel, and I was a player and I wanted to take my wife and, for example, my child, my airfare would be gratis, but I would have to pay for my wife and child?

A I believe you are correct in that statement.

MR. ROSEN: Now, Mr. Reporter, I would like you to mark this as Defendant's Exhibit 1 on this examination. It is a photocopy of certain sheets from the St. Maarten Isle Hotel Casino, with handwriting and numerals, totally engulfing all of it, and some photostats of adding machine tapes as well. It happens to bear the mark of Exhibit 167, for the United States District

J 84

Court, Southern District of New York.

Would you mark that please as Defendant's Exhibit 1.

(Documents from St. Maarten Isle Hotel Casino and adding machine tapes marked Exhibit D-1 for identification.)

Q Now, Mr. Goberman, when a player comes down to the casino, is it not normal or usual that he put up certain monies which we call "front money"?

A Yes, sir.

Q And is it not a fact that this money is credited to the casino?

A Yes, sir.

Q And he plays on that money initially, isn't that right?

A Yes, sir.

Q Now, if a man puts up a thousand dollars front money, and he should be very lucky and win $10,000 at your casino, and then come back to New York, what would he come back with?

A He would come back with $11,000.

Q That would be the $10,000 that he won on the casino and plus he gets his front money back, plus he enjoyed a lively vacation?

A Correct.

Q Now, if that very same man lost $10,000 at the casino, he would then owe the casino $9,000, isn't that correct?

A That's correct.

Q Now, is it not true that there were two methods of making payments for losses at the casino, i.e., the first manner they had that the player could pay at the casino if he had the funds?

A That's correct.

Q And if he did not have the funds, he would have to sign little IOU's called markers. Isn't that correct?

A He would sign the markers as he got additional credit as he played. When he's finished playing all markers were in. If he lost $10,000 he had markers for $9,000 and $1,000 in cash.

Q So this unfortunate soul who was not too successful at the casino would leave the casino leaving behind the thousand dollars he had put up as front money and $9,000 in these markers; is that correct?

A That appears to be the way it was done.

Q Now, was it not the practice during the time period I just referred, October, 1970 to January, 1971, as well as other times, that the markers would be payable back in New York or at the hometown of the gambler or the man who lost the money? I'm referring to pick-ups, Mr. Goberman.

J 86

You understand what that means?

A Yes.

Q So where would this anonymous gambler pay off this $9,000 in markers?

A In the States.

Q Back in New York most of the time, wouldn't that be correct?

A Most of the junkets came from New York, New Jersey area

Q During this period of time, Mr. Parness was in charge of obtaining these funds on markers; isn't that correct?

A Yes.

Q That was his responsibility?

A That's right, one of his responsibilities.

Q And this unfortunate gambler, who lost so much money at the casino, would have to make good his markers and pay Mr. Parness, usually?

A Or any of the other junket operators. There are other junket operators and they would be responsible for collecting it.

Q Then let's take a junket that was sent down by Mr. Parness, that would be his responsibliity to try and collect this?

A Yes.

Q Now, of course would it be fair and honest to

J 87

say that not all of the monies that were lost at the casino were actually collected, without getting into percentages yet?

A Yes, it is standard like any other high risk credit. You can't collect it all.

Q Now, the monies that Mr. Parness was responsible to collect on markers I take it you are claiming in this complaint, belonged to Allan N. Goberman and to no one else in the whole world?

A As operator of the casino, that is correct.

Q It does not belong to your wife, does it, yes or no?

A No.

Q I don't know if you have any children, but it did not belong to your children?

A No.

Q It belong to Allan N. Goberman as you see it?

A As the licensee of the casino, yes.

Q In other words, Mr. Goberman, if $200 were collected on a marker, you expected that money to come to you?

A That's right.

Q And if you wanted to go and buy a nice sports jacket with that money, you had every freedom to do so if that was your inclination; is that correct?

J 88

A It was my money to do as I wished.

Q Now, getting back to this time frame that I mentioned a little while ago, I ask you to look at what is now marked as Defendant's Exhibit 1 for identification, as of this date, and I ask you whether you have ever seen that compilation of papers before. If you want we will have the Court Reporter acknowlede how many sheets of paper are encompassed.

Mr. Goberman, to save time, I'm going to ask the Reporter to mark a series of documents which I would like you to look at in toto. In other words, go through it and see if you are familiar with what they are. So we don't do these separately, let's take a few minutes now to mark all these documents.

MR. ROSEN: Mr. Reporter, would you mark the following exhibits Defendant's Exhibits 2, for identification, as of this date, which is a similar type of series of documents, the front page of which bears the number Exhibit 168, United States District Court, Southern District of New York, as Exhibit 2.

(Documents marked Exhibit D-2 for identification.)

MR. ROSEN: As Exhibit 3, a series of similar type documents which bears on the front

page, Exhibit 169, U.S. District Court, Southern District of New York.

(Documents marked Exhibit D-3 for identification.)

MR. ROSEN: As Exhibit 4, a similar type of compilation of documents which bears on the front page, Exhibit 170, U.S. District Court, Southern District of New York.

(Documents marked Exhibit D-4 for identification.)

MR. ROSEN: As Exhibit 5, a seven-page compilation of similar type documents bearing on the front page, Exhibit 171, Southern District of New York.

(Documents marked Exhibit D-5 for identification.)

MR. ROSEN: As Exhibit 6, a six page compilation of similar type documents bearing on the front page Exhibit 172, Southern District of New York, United States District Court.

(Documents marked Exhibit D-6 for identification.)

MR. ROSEN: As Exhibit 7, a five-page compilation of similar type documents bearing Exhibit No. 173, U.S. District Court, Southern

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District of New York.

(Documents marked Exhibit D-7 for identification.)

MR. ROSEN: As Exhibit 8, a three-page compilation of similar type documents, bearing on the front page, Exhibit 174, U.S. District Court, Southern District of New York.

(Documents marked Exhibit D-8 for identification.)

MR. ROSEN: Exhibit 9, a two-page exhibit, of a similar type document bearing Exhibit No. 176, U.S. District Court, Southern District of New York.

(Documents marked Exhibit D-9 for identification.)

MR. ROSEN: As Exhibit 10, a two-page compilation of similar type documents bearing Exhibits No. 177, U.S. District Court, Southern District of New York.

(Documents marked Exhibit D-10 for identification.)

Q Mr. Goberman, please take your time and look at what is now marked Defendant's exhibits 1 through 10, for identification, and tell me whether or not you have ever seen those or the original of those documents before. Take

J 91

your time, sir.

A May I ask a question?

Q On the record?

A On the record, I would like to ask a question about these. I notice these are marked United States District Court, et cetera. Does that mean that these are copies of the originals or copies of copies that were exhibits in the trial?

Q Mr. Goberman, as I understand it, these are copies of the originals or of copies apparently, furnished to us by the United States Attorney during the criminal trial of Milton and Barbara Parnes at which you were a witness for the prosecution.

A That's the question I just asked you.

Q That's what it is.

A These are the things apparently that I have been, part of the things that I have been asking the U.S. Attorney to give me and apparently you have them and I don't have them.

Q Well, I'm now showing them to you, Mr. Goberman, and asking you whether you have seen them before.

A There's no hardship, I'm going to try to identify these for you if that's what you want me to do.

Q That's what I asked you to do.

A No problem. Some have a little weak-- obviously this

J 92

is my printing, obviously.

Q Refer to an exhibit number.

A I'm looking now at Exhibit No. 1 and I can see my printed handwriting on this, on some of this. I can't say that the handwriting inside here is mine. I don't recognize it.

Q Let me ask you something: If you will kindly look at all of them and take the time, could you tell me whether or not you submitted copies which may have been the originals that the government used to give us these exhibits to the government in connection with that criminal case?

A Let me say-- may I word that a little differently? By glancing through these, these appear to be copies of originals and/or copies of copies, that were subpoenaed from my records and look very much like, these are the ones that we used in the trial.

I can't, right at the moment, certify to every page that's here. But it looks very much like the records that were subpoenaed from me that were used at the trial.

Q And which you turned over to the government pursuant to that subpoena?

A Which the government took from me under subpoena.

Q But they were in your possession before they were in the government's possession; isn't that correct?

A Yes. These among a lot of other papers and tapes

recordings and so forth under subpoena that the government took from me.

Q What tape recordings did the government subpoena from you which you turned over?

A Let me qualify that. The government did not subpoena a tape recording. But I was interviewed by two special agents and in the form of a tape, the two tapes or the many tapes that they have, I don't have any bearing on this case. But in the over-all picture of all my various situations they were important to me and I wanted them and they were promised to me but they haven't been given to me. If there's anything in those tapes which bear on Mr. Parness, I don't know. I doubt it, but it is part of the over-all picture that I wanted from the government that I wanted, that they promised to me.

Getting back to these, these appear to be copies of papers that I had certainly gone over many times.

Q Is it not a fact that you went over these papers with the government?

A Well, they questioned me at the trial about these papers, yes.

Q Now, Mr. Goberman, in looking at these papers--

A By the way, excuse me for interrupting you. Do these represent all of the exhibits or were there others that you don't have copies of?

J 94

Q Most respectfully, I don't have to answer your question, but I will say this to you: That these are all of that type of paper that I have brought here today and if I have any other similar papers they are in my office. My understanding is this is the totality of this type of documentation supplied to us by the government.

A My reason in asking you this, Mr. Rosen, is twofold. Number one, you tell me that "Mr. Goberman, you have to brin all these records and so forth" and I say to you "Well, I give you evidence where I tried and I haven't gotten them yet." Anything you have that will be helpful to me I would like to look at.

Q Most respectfully, I am here not to be helpful to you. I am here to reply to a complaint and if I show you documents in my possession and they somehow aid you, that's to your benefit.

A Aid me to do what?

Q Whatever it is you want the documents for from the government. Whatever purpose it is you have yourself.

A One of the reasons why I didn't know you had these documents and I felt that I should have them if I'm going to interrogate here and I wanted them so that I could speak intelligently and honestly.

Q Now you have them and in looking at them would it be fair and honest to say that these documents, Defendant'

J 95

1 through 10, inclusive, marked for identification, at this examination, represent casino worksheets for junkets for the period October 11, 1970 through January 31, 1971?

A I'm not sure it represents all the worksheets, but these are worksheet copies.

Q That encompass that period, at least?

A I'm not sure whether there's more that encompass that period or not.

Q But the ones that you have in your hand do fit within that time frame; is it not so?

A Let me check them out, the dates. The dates were what?

Q October 11, 1970 through January 31, 1971.

A They appear to be encompassing as you said that frame of dates, yes.

Q Now, Mr. Goberman, at what point in time, borrowing a phrase from television, do you claim the defendants in this civil action collected or failed to deliver to you personally $650,000 collected from junkets by way of markers?

A I can't give you that without having my records here.

Q Mr. Goberman, is it not a fact that you have previously testified under oath that Milton Parness owed you between, approximately $350,000 and $400,000, as of February 4, 1971?

A I don't recall the exact dates. I don't recall the exact amounts. I don't want to commit myself unless I had

J 96

a copy, unless you might have it, a copy of the transcript of the trial which is one of the things I asked for. So that I could refresh my memory when you ask me these questions.

Q Mr. Goberman, I am not retrying the criminal case. I am here defending a civil case which you brought on behalf of yourself, to collect this astronomical sum from the defendants. However, I will refer you and I will let you look at Page 70 of the minutes of a trial of the United States of America, against Milton and Barbara Parness, which took place in the Southern District of New York, some time in September, 1973, when you testified for the government and were asked the following questions and gave the following answers:-- I will read it to you but you can look at if you like after I finish reading it to you. "Question: At the time Mr. Holzer was pressing you for the return of $155,000, had you calculated from these reports how much money was due on markers? Answer: Yes, sir. Question: Do you remember what your calculation was from the reports that were given to you? Answer: I would say it was somewhere around $350,000 that was due on pick-ups. Question: Who was responsible for seeing to it that the casino collected that $350,000? Answer: Mr. Parness was responsible."

Do you remember being asked those questions and making those answers?

J 97

A They sound reasonable and familiar to me, yes.

Q Is it not a fact, then, Mr. Goberman, that it is your position that in late January or in December of 1970 or late January, early February of 1971, Mr. Parness was responsible for collecting the sum of approximately $350,000 to $400,000 in markers due to the casino?

A Yes, sir.

Q Now,would you be kind enough to tell me at what point in time, if any, does the sum grow to $650,000 as alleged in your complaint?

A It would have to be after the date that we just referred to there.

Q So it would be fair and honest to say it would be some time subsequent to February 4th that additional monies above the $350,000 to $400,000 which you testified were then to be picked up by Mr. Parness?

A Yes.

Q And is it your testimony, Mr. Goberman, based on your complaint, that Mr. Parness, that one, that sum of money was due to you as operator of the casino?

A Yes, sir.

Q And that, two, Mr. Parness actually collected those monies?

A I didn't say he actually collected it.

Q Well, do you know whether or not Mr. Parness or

J 98

anyone acting on his behalf collected either the $350,000 to $400,000 which you testified to at the trial, or the $650,000 which you now claim is due in this civil case?

A I don't think we ought to mix the two together.

Q Could I please have an answer? I will separate it.

A I wish you would.

Q Do you know whether Mr. Parness or anyone acting on his behalf, on or before February 9, 1971, collected the sum of $350,000, to $400,000, which you now say was owed to you, as licensed operator of the casino, do you know that?

A I don't believe at any time I said that I knew for a fact that he collected that. I don't believe I said that at the trial. I said he was responsible to collect it. And I assumed that he collected it.

Q But you don't know that? Yes or no?

A I didn't see the collections.

Q I'm sorry.

A I didn't see the collections.

Q Well, you could know a certain fact, sir, I suggest to you, without having to actually see it occur. For example, I might suggest to you that if I walk into this deposition with a raincoat on which was sopping wet with a dripping umbrella and there were no windows in this room, you could reasonably assume that it was raining out;

J 99

would you agree?

A Not necessarily. Somebody could have dropped a bucket of water from the roof on you.

Q But in normal experience would you reasonably draw that type of conclusion, sir?

A That would be a normal conclusion, yes. Otherwise you wouldn't have asked me that question.

Q Notwithstanding the fact that you never saw what you say was, you assume, collected of the $350,000 to $400,000--

A I saw some of it. Namely, it came through the casino, I saw some of it.

Q So is it now your testimony that at least up until February 9, 1971, there was remitted to you by Mr. Parness some of the $350,000 to $400,000 which you say was due to the casino?

A I'm not saying now anything different than I had said before. As you say "now" I'm saying. I'm not saying anything differently than what I said at the trial, along those lines. I said that Mr. Parness was responsible for the collection of this money. Is there anything in there that says other than that?

Q I don't intend to answer your question.

A I'm certainly not going to say anything unless I know what I'm talking about.

J 100

Q I'm not going to answer your question. I'm going to ask you another question. Do you know that Mr. Parness collected and failed to remit $350,000 to $400,000 which you say was due as of February, 1971?

A I don't recall at this time.

Q Is there anything that could refresh your recollection that you know of?

A Yes, I would say-- if at all possible, I want my recollection refreshed because I want to be truthful and honest here otherwise I wouldn't be here.

Q Are you telling me that was not your intent and desire at the trial?

A Of course it was my intent and desire.

Q Do you know if all the $350,000, the $400,000 due at that time was collected by Mr. Parness?

A I don't remember that.

Q I didn't ask you whether you remember, I asked you whether you know it.

A I don't remember if I knew it at that time.

Q Do you know it now?

A I still don't remember. Because I haven't got my records.

Q Do you know now whether the $650,000 referred to in Paragraph 8 of your complaint was collected by Mr. Parness and not turned over to the casino?

J 101

A I assume that he collected it.

Q But you don't know?

A No. I didn't see the evidence that he received this money.

Q Mr. Goberman, if I were to show you certain figures which I would introduce which would be able to substantiate the fact that both sums that we have been referring to here were not wrongfully withheld from you, would you agree that Mr. Parness did not wrongfully withhold monies from the casino and you, if you saw figures which you could accept?

A If I see figures that I would accept, I will be truthful and honest in my answers as I have been and whatever the outcome of the answers may be.

Q Were you shown any figures previously to this date by any members of the government, which would lead you to conclude that there was no wrongdoing on the part of Mr. Parness?

A You will have to give me that again.

MR. ROSEN: Read the question.

(The pending question is read by the Reporter.)

A It is not clear in my mind.

Q I'll rephrase that. Were you ever shown any documents or papers by any member of the government in connection with the criminal trial, that upon looking at

J 102

these documents you could come to the conclusion that there was no wrongdoing by Mr. Parness in connection with his collections or attempted collections of what you say was due and owing to the casino at that time?

A You may have to cut that question down in smaller phrases. What you are saying as I understand the question, when you say government, you mean the U.S. Attorney?

Q Or the special agents that interviewed you or anybody else.

A Did they show me papers that they had other than what they subpoenaed from me?

Q No. Including papers subpoenaed from you, that you could honestly say when you looked at it, that this explains where the money went, and I can't see where there was anything wrong here. If you weren't shown that and didn't see that, please tell me.

A I'm sorry, I can't get that question in my mind clearly.

Q I will withdraw that and go on to something else.

A All right.

Q Would you say that the $650,000 referred to in Paragraph 8 of your complaint, was collected by Mr. Parness July of 1971?

A I don't know when. I aver that he collected it based on sheets and figures similar to these exh'bits 1 through 10, here.

Q Is it not a fact that it was those very sheets that you just mentioned which you concluded both that Mr. Parness owed between $350,000 and $400,000 at or about February, 1971, and the $650,000 at the time, at a time subsequent thereto, didn't you use those sheets to come to your conclusions?

A If these were all the sheets that were used, these were used to come to a conclusion of the $350,000 to $400,000 figure we are talking about.

Q What did you use, if anything--

A I had more, others that I haven't been able to get back.

Q So you say their existed other documentation which will support your allegations that $650,000 was collected?

A I think so-- well, was supposed to be collected. We are bandering words here, but it says plainly right here, I'm looking at a copy of my complaint, and it clearly states "that collected but failed to deliver to the plaintiff $650,000."

Q But, you don't know that to be true, do you?

A Well, I don't want to use the word true or false. I felt that it was that much money due to be collected by Mr. Parness.

Q But not necessarily in fact collected?

A Well, I had, I have to work on the assumption that

J 104

if there were markers to be collected that either all or a great part of them would have been collected.

Q Taking your assumption, Mr. Goberman, would it not be fair and honest to say that assuming that Mr. Parness collected all that you said and now say was due to you as the casino operator-- I want to strike that and make the question a little bit more precise.

Would it not be fair and honest to say, Mr. Goberman, that assuming Mr. Parness had collected all that you say was due and owing on markers, that that would only be a gross figure and not necessarily the actual amount of dollars which you claimed should have finally reposed in your own hands and pockets?

A When you say gross figure, what do you mean by that?

Q I mean gross figure in the common parlance that if a man earns $200 a week as a salary, that's not what he takes home to his wife and kids. There are certain legitimate deductions in this case of our wage earner of social security and withholding taxes, which brings you down to a net, which is actually what he goes to the supermarket with. That's what I mean by gross and net.

A I believe you would be correct in that assumption. I think that at all times I said those figures were gross figures.

Q All right. So before we get into specifics, I

J 105

don't want to burden you, any time you want a break or anything, you let me know.

A I'm all right, thank you.

Q Just to lay a general background, if, for example, $100 was due from John Jones, on a marker, and $25 of that $100 had to be attributable to, for example, the airplane ride down from New York, the $100 you would not expect to put the $100 in your pocket, but instead $75?

A Let's change the term "put in my pocket." I would not expect $100 to be collected by the junketeer, but $75 to be collected by the junketeer, net, is that what you are saying?

Q Yes, but why would you not expect the $100? Wouldn't it be the junketeer who has to take care of the airplane, for example?

A Well, no, you know as well as I do that expenses has to come out of that.

Q I'm suggesting to you that the junketeer might pick up $100 but he has to take care of the airplane out of the $100 and remit the balance to you.

A That's right. So in that case, distributing $25 for the expenses of the plane, et cetera, that I would expect the casino, myself, would expect to receive $75.

Q But going further then, would not the junketeer be entitled to 10 percent of $100 and therefore another $10

J 1061

goes to the junketeer?

A Yes, only if the casino won money on the junket.

Q I'm talking as normal occurrence.

A You don't win all the time, but yes.

Q The junketeer would be entitled to his piece?

A Yes, the junketeer would be entitled to the deduction of the airfare and the 10 percent of the casino's winnings.

Q Now, in your little hypothetical situation we are now down to $65 due to the casino under basically ordinary circumstances?

A Your percentage may be high or may be low.

Q Assuming that percentage was--

A There are originally, there could be three deductions from the gross, the airfare, percentage-wise, the ten percent to the junketeer and in some cases $50 a head to the junketeer.

Q But in our little example if $50 would be out of the proposition, so there would be a few more dollars taken out so out of that $100 there would be less than $65 which might be due and owing to the casino, if you assume my figures?

A All right, you may have the figures.

Q I'm not asking you to accept them as true.

A I think you are a little high, but go ahead, in your deductions. Go ahead.

J 107

Q Now, let's get into Exhibit 1, Mr. Goberman, which you have before you, I take it?

A Yes, sir.

(Short Recess)

MR. ROSEN: Back on the record. During the break, where the reporter was changing his paper, I advised Mr. Goberman that he would be entitled to a copy of this transcript.

BY MR. ROSEN:

Q I ask you to look at Exhibit 1, and would you tell me whether that represents the casino worksheet for the period October 11th to 14th, 1970?

A It appears to be, yes, sir.

Q Now, I'm going to go through each and every one of these ten exhibits and perhaps if I can impose upon you, since I don't want to ask you to accept my figures, to make certain additions as to what monies were due on pick-ups and what monies were earmarked as a deduction therefrom, for airfare and other expenses.

I have figures but I'm not going to ask you to accept them, I will give you the opportunity to add them up yourself, because I do want to ask you specific questions about them. I want to ask you now on Exhibit 1, I'm going to tell you what my figures show on those exhibits, on that exhibit and then ask you if you want to take the time and do it,

J 108

and see if your figures disagree, I'm going to ask you whether or not this exhibit, Exhibit 1 shows that $77,600 was due on markers from that junket on pick-ups. You don't have to do it right now, you can do it during a break. I know it is difficult because it is important.

A It shouldn't be difficult if it is.

Q Do you want a piece of pad and paper or something?

A It seems that there are a lot of duplications here. Mr. Rosen, a lot of these sheets are duplications. You have, for instance here one sheet, you have one, may I ask you how you get your total?

Q Mr. Goberman, I obtained the total of $77,600 from adding up the column marked pick-up that was not a duplicate.

A If I can take a moment.

Q Sure. This is just October 11 and 14.

A It appears that everything would be on one sheet, and the figures that I roughly come up with on pick-ups looks like $77,600. What were your figures?

Q My figure was, I told you, $77,600.

A Then we have the same figure.

Q Now, in looking at that worksheet, Mr. Goberman, if you are going to make these computations I request that you allow me to mark as an exhibit the piece of paper that you are writing on. If you had a lawyer here he may say no.

Now-- J 109

A Here, if you want this you can have it.

Q I will do it altogether at the end.

A I will add it on here.

Q I would prefer that you don't touch the documents. If you had a lawyer here he would prefer that not happen. I'm going to ask you to do it, if at a later date the court rules that I should not have done it,I will abide by that direction. I don't want to impose upon you not having counsel here. I would ask you to look at the worksheet for that same October 11 and 14, 1970, junket and ask you to come up with a figure that was--

A Which one are you talking about? Is this the same one here, "In, 10/11, out 10/14", headed Olympic Sports Club, detroit.

Q Yes. I ask you--

A I added it up and according to markers to be picked up, it appeared roughly that it was $77,600. And you agreed with me that that's the figures you had, right?

Q That was what my addition produced from those same documents. Is there a way--

A You want to ask a question about this?

Q Yes, if you let me ask the question, I will. Could you compute from those very same documents what figure was expended for airfare?

J 110

A What do you mean, extended?

Q Expended.

A No, I can't tell you by this. I don't think I can.

Q Could you add up number of players and multiply by what the airfare cost, wouldn't that be a way to do it?

A Well, I think--

Q Was the airfare at that time $204 each player?

A When you say "airfare" you mean the cost of the plane?

Q Yes.

A The cost of the plane could have been anything from $12,000 to $17,000. It wouldn't appear on there. The plane is paid by the junketeer in a lump sum.

Q Is it not a fact that the cost per person would be allocated to how many--

A Not necessarily. It comes off the total win. The plane comes off, may I interject my thinking in this?

Q Yes.

A I think you are approaching this incorrectly here.

MR. ROSEN: Off the record a second.

(There is a discussion off the record.)

MR. ROSEN: Back on the record.

Q Regarding Defendant's Exhibit Number 1, Mr. Goberman, and your prior computation that $77,600 was collectible on markers, assuming $77,600 was in fact collected by Mr. Parness or his representatives, would you

J 111

not then have to allow as deductions from the figure certain expenses?

A I can't answer that because in this particular group of papers is all the facts aren't here that would allow me to say that.

Q What was the total that those papers reflect was lost at the casino, is it an $89,000 figure approximately?

A Yes, roughly $89,000, yes.

Q Now, would you not have to deduct from the $89,000 10 percent to the junketeers?

A Yes.

Q Would you not have to deduct from that figure the airfares for the 24 some odd players that lost that money at the casino?

A Yes.

Q Mr. Goberman, were you not asked the following question and did you not give the following answer at page 75 of the transcript of the trial:

"Question: Would it be fair to say that your computation of the $350,000 was as of just prior to the time of the hotel foreclosure, at the beginning of February, 1971? Answer: Yes."

Is that an accurate answer?

A Are you reading it out--

Q I represent to you that I'm reading it out of

J 112

the transcript.

A If you are reading from the trial transcript, why, that must have been my answer.

Q And that is still your position that that $350,000 or if you will, $400,000, was due at that time?

A According to the records that I had at that time.

Q Now, were you asked the following question and did you give the following answer appearing on Page 482 of the transcript, and I represent to you that I'm reading from, I have two copies of this transcript which is included in an appendix on appeal here and I will let you follow along with me. It appears at Page 482:

"Question: If I may ask this question on this whole general subject: As you are on this witness stand now, you cannot give us an itemization of what uncollected markers you included and what you did not include in the $400,000 figure? Is that so? Answer: I just took the flat, in my mind, ten percent, and I don't believe that I included Mr.-- the court interjects, I'm not quite clear on the answer to the question.

"The Court asks you: Mr. Goberman, I know the question is whether you, on the basis of these records, sitting here in that witness chair, you can reconstruct that$ $400,000." Your answer is "I cannot reconstruct it without some assistance. There are some more papers some place.

J 113

The Court: You cannot do it as you sit here now without those records? Answer: No."

Now, the 10 percent that you were talking about, Mr. Goberman, was not that the difference between the $350,000 and the $400,000 range that you told us about at the trial? In other words, I believe you told us that the total amount due on markers was $400,000, but that you took a flat figure let's say, of 10 percent, which you indicated was for uncollectibility, general uncollectibility?

A I'm just sure that I was referring to the facts that in my mind at least 10 percent normally would be uncollected.

Q So that breaks you down to approximately the $350,000 figure?

A Yes.

Q So $350,000 figure due in or about February, 1971, would be what was collectible on the markers, but still does not necessarily represent the net to the casino, after, because there would have to be deductions from that $350,000, is that what we are talking about?

A We are getting close to what you are talking about. It seems to me the important question along these lines is did I conclude that the $400,000 collectible markers that I agreed that there would be at least a 10 percent uncollectible. Did I conclude at that time that the expenses had been deducted or not?

J 114

Q Yes.

A I think that's the question we are trying to get to.

Q I'm asking you.

A I'm trying to reconstruct it in my mind here so I can answer you intelligently. If, at that time, this was a gross, gross, figure, then it hadn't been deducted. If it was a gross, net figure, then it was deducted. Do I make myself clear?

Q You make yourself rather clear and I apologize for not being more precise in my question since I am having difficulty and always had difficulty in understanding what the basic allegations here are.

As you sit here today on the claim of $650,000, it is encompassed in Paragraph 8 of your complaint, what does that $650,000 represent?

A Without the reference of the papers I can't explain that any more clearly then I can explain this unless I have my--

Q You testified previously at the trial, from records that you did have in front of you, that there was $350,000 which would be collectible, out of the $400,000.

Now, is it not a fact that expenses would have to be deducted from that $350,000 if it was in fact collected?

A That is the main question at the moment and if I had, or if you had or I had more definite records, perhaps I

could answer it. The question is was it net, net or gross, gross. I don't-- let me assume that.

Q Well, Mr. Goberman, let's not get into any assumptions. Exhibit 1 reflects that $77,600 was due on pick-ups out of a total loss at the casino of $89,000, approximately $80,000.

A Right.

Q The difference in the two figures would be what was paid by the gamblers at the casino and the rest would then have to be picked-up, the difference between the $77,600 and the $89,000; isn't that correct, because that would represent the pick-ups?

A Well, not necessarily. That is net, after paying the casino loss to players, too. There was one player that won $18,500.

MR. ROSEN: Off the record for a moment.

(There is a discussion off the record)

MR. ROSEN: Back on the record.

Q Mr. Goberman, if we take Exhibit 1, $77,600 figure that we arrived at as total markers to be collected by Mr. Parness, okay?

A Yes.

Q We start with that foundation, okay?

A Right.

Q Now, when Mr. Parness makes his collections from

the junketeers on that $77,600, there would be certain monies that the junketeer would be entitled to for himself: isn't that correct, the 10 percent and the 50 a head?

A That is correct.

Q So the junketeer is not going to give Mr. Parness $77,600, he's going to take, withhold or at least not improperly withhold but he will just keep that which is his before he gives Mr. Parness the $77,600, correct, or if the junket was run by Mr. Parness, that which represented 10 percent and $50 a head would belong to Mr. Parness?

A To Olympic, which is the name on the top.

Q In this particular case.

A Nothing was owed Olympic.

Q Out of the $77,600 there would be a figure that Olympic would be entitled to for the 10 percent and the $50 a head out of the $77,600?

A If there was no records to indicate that the junketeer in this case, or the junketeer, had already received it, I would say that it would then come out of the collections.

Q But you know Mr. Goberman, the junketeer at this point had not received any monies?

A No. When you say I know, it's not quite that simple. Each one would have to be taken individually.

Q Mr. Goberman, if those figures were paid in advance, first of all, how could any figure be attributable

J 117

in advance to anything if you don't know what the loss was?

A No. The airfare, for instance, was the airfare taken out-- let me say this: You would almost have to analyze it. It appears to me according to this exhibit, I see no papers here that indicate that the airfare was taken out prior to any time that the markers were collected. Let us say that Mr. Parness could have or the junketeer could have said "I want my airfare returned immediately, before the markers are collected." He could have said that.

But there's nothing in here in this exhibit that indicates that this was the case. So in all probability that money would have to come off the collection of the $77,000, because there's nothing in here that makes me believe otherwise.

Q In any event, Olympic had to pay the airfare?

A I agree with you. I am not disputing that. Now, the question is was Olympic repaid at St. Maarten or was Olympic to be repaid out of the collections, and as I say to you, there is nothing in here to me that indicates that Olympic was paid at St. Maarten.

So if Olympic was to be paid in this particular junket, according to the papers I have in front of me, it would have to come out of the collection of the markers.

Q But in any event, if Olympic had paid, prior to pick-ups, they wouldn't be picking up $77,600?

J 118

A I beg your pardon?

Q If Olympic had been paid the airfare in advance of the pick-ups, they would be picking up less, less the airfare?

A If Olympic had been paid, did you say, had been paid? If Olympic had been reimbursed, is the word you want to use, for the airfare that they paid, then it would not come out of the marker collection.

But as I say to you, in these sheets I see no indication that Olympic was paid. Therefore, I have to assume, I don't like to use the word assume, that Olympic or whoever it happened to be, but in this particular case I can't honestly say, I can't find anything here that indicates that Olympic was paid, reimbursed for the airfare.

So, therefore, I am willing to assume that the airfare was to then come out of the $77,000 some odd that was to be collected.

Q As well as the monies allocated for other expenses?

A Yes, 10 percent and the $50.

Q So that if we take just Exhibit 1, use that as our groundwork for future junkets that I will be asking you about, $77,600 due on pick-ups, would not be what would ultimately be remitted to the casino?

A There is a very strong possibility that those expenses

would come out of the $77,600. J 119

Q Now, I ask you to look at the junket for October 10, to 18, which is also encompassed in Exhibit 167. And my figures reveal that a total of $18,000 was due on pick-ups.

A Is that the one marked Olympic?

Q Parness, Olympic.

A It just says Olympic. Orlick.

Q Yes. My figures reveal that $18,000 was due on pick-ups.

A It is a simple add-up here of $15,000, $1,000 and $2,000, it's $18,000, yes.

Q And in reviewing these records would it be fair and honest to say that the expenses that we have been talking about, the airfare, the commissions for the junketeer, and the $50 a head, would come off of this $18,000 figure, and result in an amount less than $18,000 being due and attributable to the casino?

A If you are going to apply the same method that you did in Number 1, and once again I'm going through these sheets and I see, once again, there's nothing in these worksheets that indicate that the airfare was reimbursed by the casino before the junket left. And if it wasn't reimbursed I would have to therefore assume that it would have to come off the marker pick-up.

J 120

In this particular case, I don't think Olympic would have gotten the 10 percent. I think Mr. Orlick would have gotten the 10 percent, but it doesn't matter.

Q I'm going to, on the record, ask Mr. Parness to put some questions to you instead of me, concerning some of these figures. Perhaps his expertise or his knowledge of what actually happens surpasses mine and I would ask him if he could clarify it better than I can. I would ask him to do so. Perhaps we could come to a common understanding.

This is going to be done on the record and perhaps we can agree as to what these figures do or do not represent.

A Not having a lawyer and not knowing-- I will assume what you are asking right now is perfectly normal and--

Q Yes. Because apparently you don't understand what I'm asking you, and it is based on my studied knowledge of the situation which may not be sufficient enough, not having actual experience in trying to elicit these answers from you.

MR. ROSEN: Would the reporter indicate that Mr. Parness is going to ask these questions.

BY MR. PARNESS:

Q Mr. Goberman, when you arrived at a figure to put into your total of what was due on marker collections, you took the total on the end, which said "marker pick-ups"?

A That is right.

J 121

Q Now, if that figure came to $77,600, that would be the total that was to be picked up in New York?

A Yes, sir.

Q It would have nothing to do with any expenses or any other things, whatsoever, that's the total that these people were going to pay in New York?

A That's right.

Q Correct?

A Yes. This is the money that was owed, that they lost. And they didn't pay for.

Q Not the money that they lost. That was the money that they didn't pay at the island and was to be picked up in New York.

A They lost it and left a marker for it, and then they would have to pay that in New York

Q Right. Now, if there were expenses incurred in regard to this $77,600, it would come off of that figure for junketeers 10 percent, $50 a man, or airfare, and there would not be $77,600 coming back to the casino because you would have to subtract these expenses from this amount, correct?

A Let me answer that by saying that this is what I have been trying to say in the last ten minutes or so, that one of two things would happen. Either the expenses were repaid at the time the junkets left to the casino, not the junketeer,

J 122

or the junketeer would deduct that from the pick-up of the markers. Now, in looking--

Q Let me say something. So if the $77,600 figure doesn't show a deduction of expenses it means that nothing was taken off yet?

A Let me correct you and still get to the same thing. Not that the $77,600 doesn't show any deductions. Do the papers covering the entire operation of that particular junket, does that indicate or show that the expenses were paid to the junketeer or not. If they were paid to the junketeer it wouldn't come off the markers. If they were not paid to the junketeer, then it would have to come off the markers and as I stated previously in looking through Exhibit 1 I see nothing in these figures that indicate in that precise junket that the junketeer was repaid in St. Maarten so it would have to come off the collections.

MR. PARNESS: Okay, that's all you wanted to establish.

MR. ROSEN: Basically, yes.

MR. PARNESS: All right, go ahead. Go step by step and let him check each one.

BY MR. ROSEN:

A Excuse me. I can say this, unless these records that I have before me indicate that the money was reimbursed to the junketeer in St. Maarten, then the same set of rules

that we were talking about would apply. J 123

Q It would apply for all the junkets that I intend to question you about.

A Right. The question is whether these are all the papers or not.

Q Well, it is a fact that these were all the papers that the government obtained from you.

A And as you say, Mr. Rosen, you are not here to help me, you are here to help your client. I assume what you tell me is correct. If I had a lawyer here I'm sure he would ask you questions along those lines. I accept these in good faith on what you just told me.

Q I represent to you that these are the copies thatthe government turned over to us as potential exhibits. I don't know what else they didn't turn over to us, but these were the papers I suggest to you, that were shown to you on the witness stand and from which you reached your conclusions that there was $350,000 to $400,000 due on or about February on marker collections, 1971.

A Right.

Q So that based on these papers it would be fair and honest to say, would it not, that that figure of $350,000 to $400,000, did not take into account, based on these papers, the deductions that we were talking about?

A Based on these papers I can't seem to find indications

that the casino had paid the junketeer for the expenses.

Q Is there anything else in your records or in your possession or anywhere else in the whole world, which would cause you to believe that these expenses were in fact paid and given to the junketeer on the island?

A That's a pretty ify question.

Q Well, do you know of anything else, do you know, do you have knowledge of anything in the world, that you have seen, or that you recall, that would cause you to believe now or at any time, that those particular expenses that we are talking about, the three types of expenses, airfare, 10 percent commissions and $50 a head, were in fact paid to the junketeer on the island?

If you want that question reread--

A No, I know what the question is and I have been thinking of two answers for you. I would say that with the papers that I have in my hand here, which covers copies of these exhibits and marked as Defendant's 1 to 10, there's nothing in here that indicates in my, the best way I can read it, there's nothing in this that indicates the expenses were paid.

To go further, I don't know, I haven't got other papers in front of me. But talking about these ten--

Q Are you aware of the existence of any papers that you may not have in your possession which would indicate

the contrary, that the expenses were paid in advance?

A I could only answer that if I had the papers in my hand.

Q Are there any papers that you think exist that would substantiate that contrary,conclusion that you don't have?

A I don't think that's a fair question.

Q Well, if you don't want to answer it, you have every right not to answer it.

A No, it isn't that.

Q I'm trying to be fair. However, I'm trying to pin you down, Mr. Goberman, very, very succinctly, to one set of facts and I'm trying to ascertain whether outside of the exhibits which you hold in your hand, marked 1 to 10 in this examination, do you recall that there may be other papers which, if you had before you, would show you that those expenses were not taken off of the actual collections?

A If there are other papers, and I would peruse these papers, I believe I could tell whether the expenses were paid or not paid.

Q Do you have any present recollection of the existence of any other papers that you have ever seen, but which you may not have access to, which would indicate the contrary?

A That's too broad of a question for me to answer.

J 126

Q Besides other papers, do you have any independent recollection or knowledge of any specific instances covering these junkets, represented by those papers, where the contrary existed?

A Let me answer that by saying that without attempting to total these amounts, these exhibits that you have shown me here from 1 to 10, are these to the best of your knowledge, the exhibits that add up to the $400,000?

Q Well, again--

A If they are, then what-- the statements I just made apply to the $400,000.

Q All right. Mr. Goberman, in that there is a mathematical area and I will furnish you with copies of Exhibits 1 to 10 so that after this deposition you at your leisure can add up these figures. My computation, except if there's any mathematical areas, show that based on Exhibits 1 to 10, that the total pick-up between October 11 and January 31, was $233,346.10. That was pick-ups on markers, representing losses on those junkets.

The expenses for airfare, 10 percent junketeer's commission, and $50 a head tax per man, came to a total of $85,303, leaving a balance of $148,043.10.

I further represent to you that checks from Olympic to the casino for that period of time, for the month of January, 1971, totalled $131,700, leaving a balance of

$16,303.10. J 127

Now, as far as those exhibits will take you, you can add up those figures yourself, and you could verify at the next session which we are going to apparently have at some point, whether that $203,346.10 figure appears on those documents. I don't think you will have any problem in verifying that. And based on what I have just shown you, Exhibits 1 through 10, do you recall that these were the documents upon which you based your testimony that at least $350,000 to $400,000 was due on markers up until about February, 1971?

A Are you referring to these exhibits 1 to 10?

Q Yes.

A If as you say, these totalled only two hundred and what?

Q $203,346.10.

A It would have lead me to believe that there are perhaps more that you don't have that should come to the total of $400,000.

Q Can you tell us with any degree of certainty what additional records exist and where they are and if you recall the government having them in their possession?

A I have a feeling that we don't have or I don't have all the records here.

Q I'm going to--

J 128

MR. ROSEN: We will break for lunch now. I asked Mr. Goberman whether that was okay with him and he answered that he doesn't have any alternative and he doesn't want to get back.

Let's take a break for lunch.

(Luncheon Recess)

BY MR. ROSEN:

Q Mr. Goberman, without going specifically through each and every one of the exhibits representing various junkets that came down to St. Maarten between October 11, 1970 and January 31, 1971, I'm going to ask you pointblank, whether or not the $350,000 figure which you ascertained was collected or collectible, by Mr. Parness, took into account the various expenses that we have been discussing for the past hour or so.

A On the records that you have shown me here, I would say that it does not take that into consideration based on these records.

Q And is it not fair and honest to say you have no independent present or past recollection that the contrary is true?

A Well, that is an ify question.

Q I suggest to you that you are being very evasive in this area.

A I am not being evasive. I want to be fair, to use

J 129

your expression, fair and honest with you and Mr. Parness and everybody here.

Q Excuse me. You knew when you testified in Federal Court and gave a figure of $350,000 that you had not taken into consideration the expenses that we have been talking about; isn't that true?

A I think that is a very unfair statement for you to make and I resent very much you making that statement, because if I knew, I would have then told the Court, at the time that I knew.

Q Based on what I have shown you now, do you have any doubt that the $350,000 did not take into consideration the expenses?

A There seems a question in my mind whether it took into consideration-- I would say upon examination at the trial, you brought it up, to the best of my recollection, at that particular time I answered the questions I think-- I don't believe, first of all, no one asked me that question that you have just asked me, did they? Not according to what I see here. I was not asked did this take into consideration the expenses. All I was asked for was, was there any part of it that was uncollectible and I admitted in my opinion it might be ten percent.

Q Do you deny that on January 6, 1971, Olypmic transmitted down to you the sum of $15,000?

J 130

A No. I wouldn't even accept that question from you. You are reading from some figures here, what do you have, books there?

Q I'm asking you, do you have any records of the fact that Olympic transmitted a collection to you, Number 196 dated January?

A Would you like to show it to me to refresh my recollection?

Q These are not your books. I'm asking you whether you have any recollection.

A I don't recollect unless my memory is refreshed.

Q Let me ask you the question that on January 6, 1971, Olympic transmitted Check Number 196 to the St. Maarten Isle Hotel in the amount of $15,000.

A A moment ago you said remitted to you, you were speaking to me as if there was a check remitted to me for $15,000. Now you say the same--

Q I will reframe that to the St. Maarten Hotel Casino. That's you, is it not?

A It all depends on what it was remitted for.

Q Do you deny--

A I am not denying anything. I am not saying it happened because I don't remember.

Q Well--

A Would you like to refresh my memory?

J 131

Q Well, I am not going to refresh your memory from something that I don't have in my possession. This would not refresh your recollection.

A Maybe it would.

Q Have you ever seen Olympic books before?

A I have seen Olympic's checks. I really honestly don't remember whether, I can't remember really. I can't be expected to remember everything.

Q Am I correct is assuming--

A What was it for?

Q Am I correct in assuming that if I showed you an Olympic check made out to the casino--

A Do you have the check that covers that? Show me the checks.

Q I don't have possession of the checks.

A When you have it, make a photostatic copy of it and send it to me.

Q I'm not going to send you that because--

A I can't remember.

Q You cannot either affirm or deny that that took place?

A I don't remember.

Q I ask you the same about a check dated January 1, 1971, in the amount of $25,000, Check Number 197.

A Made out to who?

J 132

Q St. Maarten Isle Hotel Casino.

A I would suggest that you get the copy of the check.

Q I Appreciate your suggestions but I'm asking you whether you--

A I don't honestly remember.

Q Right now do you have any present recollection of it?

A No. I'm not denying that those checks were made. I'm not affirming because I don't remember.

Q I'm asking you whether you have any present recollection of it.

A No, I don't.

Q I ask you the same question about a check dated January 11, Number 198, made out to the St. Maarten Isle Casino, do you have any present recollection of the check like that in the amount of $12,700?

A No.

Q I ask you the same question about Checks Number 199, dated January 22nd, 1971, made out to St. Maarten Isle Hotel Casino in the amount of $42,000. Do you have any present recollection of that?

A No.

Q I ask you the same question about a Check Number 208, dated January 14, 1971 made out to St. Maarten Isle Casino in the amount of $37,000?

J 133

A I don't remember.

Q The above-- the checks that I just referred to totalled $131,700, do you have any recollection, present recollection, of receiving $131,700 in the month of January, 1971, from Olympic, in check form?

A You would have to show me something more to refresh my memory. I really don't remember the amounts. I really don't. You are asking too much of my memory. It is very difficult.

Q You were present earlier this morning when I examined Mr. Hamilton, were you not, sir?

A Yes, sir.

Q You heard him testify that he was your attorney regarding the Holzer transaction; isn't that correct? Did you hear him testify as to that?

A He testified to that, yes.

Q Is it not a fact that he was representing you, Allan N. Goberman, in connection with the Holzer foreclosure transaction?

A I don't remember the circumstances completely.

Q Well, do you deny that he was acting as lawyer for Allan N. Goberman in trying to delay and forestall Holzer's foreclosure of his $150,000 note?

A I don't remember the facts revolving around that.

Q I wanted to get back-- I'm sorry. There was

J 134 something else I wanted to finish up on the monetary aspect of this examination. I apologize for not--

A Are these checks available?

MR. PARNESS: Yes.

Q There was included in the $350,000 that you said was due as of February, 1971, $20,000 from Mr. Wolfer, isn't that correct?

A I don't think you are correct on that.

Q Well, is it not--

A Once again, there must be some sheets missing because I can't seem to find Wolfer in here. I believe I made allowance for that. I think if you look through the-- I'm quite sure I told the Court, at the time of Mr. Parness' trial that I had not included Wolfer's $20,000-some odd. Mr. Parness didn't even know him. It was on my recommendation that he was given credit.

Q If Mr. Wolfer's markers were included in the $350,000, that would have been in error?

A I don't think they were. I'm reasonably sure.

Q How about Mr. Sam Norber, that's $60,000 that was included in that, wasn't it?

A Let's finish up with Mr. Wolfer. Are we finished with Mr. Wolfer? I'm reasonably sure I did not include Mr. Wolfer in the $300,000-some odd.

Q If you did, that would be in error?

A I'm reasonably sure. I'm not sure without referring to Wolfer's-- I think that question was asked me at the trial and I said no, Mr. Wolfer's money was separate, because I personally suggested that he get credit, because I met him personally and he had lost a lot of money in a hotel. I'm reasonably sure, here you are. The Court--

Q What page are you reading from?

A I'm reading from Page 481. Here it is. I will let you look at it yourself. It happens to cover that.

Q You were asked whether or not that in this $400,000 figure, you were asked by the Court, you didn't include Mr. Wolfer. Your answer was "I don't believe I did."

"Question: You just don't know, though, do you? As you sit on this witness stand, you don't know whether you did or not, do you? Answer: I don't think I did.

"Question: You don't know for a certainty? Answer: I would say in all probability I probably didn't include that."

Is this still your present testimony?

A Yes.

Q How about Mr. Sam Norber?

A How about him?

Q Did you include $60,000 in there in the $350,000 to $400,000 figure?

A Let me say that all the money that was due from the

J 136

group in Detroit-- you are using a figure by itself that doesn't mean anything. $60,000 was just part of a couple of $100,000 that Detroit lost.

Q $60,000, if I'm not mistaken, was the amount of money that was received by the Federal Government while it was en route to be delivered to you?

A Yes.

Q Isn't that correct?

A Yes.

Q And as a matter of fact, that $60,000 that was en route to be delivered to you, you had intended to pay Mr. Holzer, isn't that correct?

A Yes, I intended to use that.

Q Now, is it not a fact that you are seeking as of this very day, to get that money back?

A Yes, I certainly am. As a matter of fact, the United States of America, has thrown out my claim because of the fact that it was past the statute of limitations. And at the present time in my own limited way I am trying to appeal the decision.

Q How much was due on the Detroit group at that time?

A I can tell you if I look at the exhibits.

Q Would you look at the papers and tell us?

A I would say it was over a couple of hundred thousand.

J 137

You would have to add all these up.

Q Let me ask you,--

A I would say Detroit owed over $200,000.

Q Was that Detroit money included in your $350,000 to $400,000 figure?

A Yes.

Q And of course, at least $60,000 was never collected. Yes or no.

A It was collected by the Treasury Department of the United States but not by Mr. Parness.

Q I'm talking about Mr. Parness.

A And not by myself.

Q That would necessarily reduce your figures by at least $60,000; isn't that correct?

A Yes and no. I felt that $60,000 could be collected, could be gotten from, under the circumstances, that the Government took this money from Mr. Norber, I felt that we, the casino or Mr. Parness, had a chance or myself of getting that money.

Now, when was that money taken by the government?

Q Well, I'm asking you when was that money taken by the government?

Was it taken before the trial, was not that money received by the government prior to February 4, 1971, when the Holzer foreclosure was finally settled by Mr. Hamilton

and Mr. Faigan?

J 138 A I don't know whether-- I think it was a few days after. I think it was after. I'm not sure.

Q But in any event, the $60,000 was included in your figures?

A I don't remember whether I included the $60,000 or not.

Q I would ask you to search your recollection, as to whether or not you included Norber's $60,000 in your total figure.

A I'm not sure in my total recollection, I'm not sure. I can't honestly answer that. I'm not certain. I would have to get an adding machine and go through all these figures.

Q Is it not a fact that Mr. Parness recommended you to Jacob Lefkowitz, who is an attorney, in an attempt to get that money back for you?

A Yes. And I went to Mr. Lefkowitz' office.

Q And is it also not a fact, sir, that Mr. Parness in recommending Mr. Lefkowtiz to you treated that money as belonging to you?

A I would assume if he sent me for it, yes, that would be the case. And I believe that these facts that you have just stated were the very same facts that I related to the Government's attorney when I was asked. Whether it is in here or not I don't know.

Q Did you ever hear of an outfit, called Quality Foods?

A Yes.

Q Is it not a fact that in January,1971, Mr. Parness paid approximately $25,000 to satisfy a bill that Quality Foods had for food deliveries to the hotel?

A Yes.

Q Do you know what the source of that money was?

A It might have been money that he collected off of markers. I don't know. I know that he brought the money in and he paid.

Q It also might have been his own money; is that correct?

A That I can't answer. I don't know the source of the money.

Q I refer you to Page 528 of the transcript of the trial in New York. Do you remember being asked this question and giving the following answers concerning the Norber money:

"Question: Now, you say that $60,000 was sent in. Answer: Yes."

A Wait, I have here--

Q Page 528.

A This is covered by 528, what page do you want me to turn to?

Q 528.

J 140

A All right, go ahead.

Q I do know that-- excuse me, let me start again.

"Question: Do you know whether or not any money was ever collected from Mr. Sealy? Answer: Well, I collected that. I mean, that was out of my hands. That's what I have been trying to find out. I do know that $60,000 was sent in supposedly to be delivered to me.

"Question: Now, you say that $60,000 was sent in? Answer: Yes." Now on Line 22, "Answer: I think it was about a week before the Holzer note was due. Whenever that would have been. Question: Some time in Late January, possibly early February, 1971? Answer: Yes, I would say it was late January. If the payment was due February 5th, I would say about a week before that."

Does that refresh your recollection as to when that $60,000 was received?

A Yes, it certainly does and I'm glad you called my attention to it because as I stated a few minutes ago, I wasn't sure.

Q Now, is it not a fact that also included in your $350,000 figure was uncollected markers from Mike Sealy?

A I'm sorry. Can I have that again?

MR. ROSEN: Read the question.

(The pending question is read by the Reporter.)

A Yes, that's part of the Detroit group.

J 141

Q So would it be fair and honest to say that that figure of $350,000 to $400,000 would have to be reduced by the money that Sealy did not pay?

A Well, at that time I certainly didn't have knowledge of how much he paid or how much he didn't pay.

Q I'm talking about your estimation of $350,000, given at the time of trial, that that was due, as of February 3rd, 1971. That's what you testified to.

A I said due at that time. It's still outstanding. I didn't say it was collected.

Q So the $350,000 that you said Mr. Parness collected, you know has to be reduced by the monies that Sealy has not paid yet?

A Well, I have no records here to indicate how much Mr. Sealy paid and how much he didn't pay by that date. So I can't honestly answer that question.

Q Is it not a fact that even as late as September and October of 1971, you were trying to collect that money from Mr. Sealy?

A You mean me personally?

Q Yes.

A No. I never involved myself in collecting money personally.

Q Did you ever call Mr. Sealy in Detroit?

A I don't recall.

J 142

Q Mr. Goberman, did Milton Parness suggest to you, tell you, direct you, command you or in any way have anything to do with your trip to West Orange, New Jersey, on February 4, 1971, to pick up two checks paid out to Willkie, Farr & Gallagher, in the sum of $155,000?

I used several adjectives in there and I want you to consider them all.

A I think it is covered on this.

Q I'm asking you now--

A I'm talking to myself.

Q Did Milton Parness tell you to go to New Jersey, yes or no?

A No, I never said he did. I think that the Court record will show that I never said that he sent me to New Jersey. Where is that?

MR. PARNESS: I think it is Page 521.

Q At the time that the $150,000 was put up, or $155,000 was put up on February 4 or February 5, to take Holzer out of the picture, you sat with Mr. Hamilton and Mr. Parness, when that situation was discussed; isn't that correct?

A I believe I was there part of the time, yes. There were discussions in one office and in another.

Q Was there any doubt in your mind then that Milton Parness was solidly behind the effort to defeat the

Holzer foreclosure?

J 143

A I don't think I had any thoughts at that particular time. If you are asking me what my thoughts were at that time, I would say that I was under great pressure, undue pressure with this foreclosure facing me and it is very difficult for me to reconstruct as to what my thoughts were on that day.

Q Well, you knew that Stanley Amsterdam put up that money, didn't you? You knew it wasn't their money.

A I didn't ask that question.

Q I asked you whether you knew, you knew that wasn't their money; isn't that correct?

A I don't know. I can't answer it. It isn't quite that simple. What I knew at that time and what I know now are two different things.

Q Let me ask you something. At first the stock was going to be held in Mr. Parness' name and in your name, as pledgee, isn't that correct?

A I believe that's correct.

Q And then thereafter as Mr. Hamilton testified, decisions were made by you and Mr. Parness that it would be best advised that neither of your names appeared as of record as holding that stock. Isn't that basically correct?

A I don't remember that. I can't say that is correct completely. I do know that a change was made and I must

J 144

assume that it was advantageous to make that change.

Q But--

A I wouldn't beat it to death.

Q I'm not beating anything to death.

A I think you are.

Q Let me conduct the examination.

A It is far from me to try to come back and--

Q Did you not know since there were conversations to find parties other than yourselves to be placed on the record, that this money was not put up by Barbara and Stanley?

A I didn't give it too much thought because I was partially in the state of shock those few days knowing tomorrow morning, the next day, I was going to lose my hotel if I didn't come up with this money and it is very difficult for me to recall exactly what my thoughts were.

Q Weren't you going to lose your hotel anyway to your creditors who were closing in on you?

A No, no, indeed not. Indeed not. No. Absolutely not. I don't know where you get that information and why you make that statement.

Q I asked you a question.

A I answered it.

Q So it is not true?

A I don't want to use the words true or untrue. The

answer is no.

J 145

MR. ROSEN: Would you mark this as Exhibit 11, please.

(Document marked Exhibit D-11 for identification.)

Q Now, I show you Exhibit-11 marked for identification, and ask you whether that refreshes your recollection as to what was initially proposed between you and Mr. Parness as a way of handling the ownership of the stock or the pledge of the stock upon the money being put up to take out Mr. Holzer?

A I have seen this before and I believe Mr. Hamilton testified on this.

Q Was Mr. Parness going to take it in his own name initially?

A Perhaps he was.

Q Well, I would appreciate an answer.

A I must say perhaps he was. That's the best way I can answer you because I must come back to you again and tell you that those few days were very difficult days for me and once again I was in, I would say that I was in a slight state of shock in those few days and a lot could have transpired that-- right under my nose-- and I wouldn't have known it transpired. I'm not denying this at all, and I'm not affirming it. I'm not sure. The days were like a

J 146

fog to me. It is easy in retrospect to say here is a piece of paper, but it's not quite that simple. What is your point?

Q Did Milton Parness in any way, at that time, hide that he himself was behind the putting up of the monies? I said "hide", I mean hide from you that he was responsible for raising the money to pay off Holzer.

A I don't understand your question.

Q I want an answer to it so I'm going to make it a little more clear then.

At the period beginning February 1st when the foreclosure was actually pending in Court, did Milton Parness hide from you that he was the moving factor and motivation behind the raising of the money to pay off Holzer?

A On the contrary, he told me he was going to do everything he could to raise that money. And I believe the final decision didn't actually come until the night before and Mr. Parness said "I'll get it. I'll get it." I never denied that Mr. Parness was the catalyst in getting this money.

Q Now, the original agreement between you and Parness of February 4, which was written in the name of you, Barbara and Stanley, you knew that the money would be repaid to the lenders by February 8, isn't that correct, three or four days after the transaction?

A I don't remember. I don't have that in front of me.

J 147

Q Don't you recall that it was to be for a few days?

A No. I do recall that it was going to be 30 days. I don't know how material it is, but I can't remember that.

Q Is it not a fact that you asked Milton to extend the time for you to repay, until March 15, 1971?

A That could be very possible. I don't recall details.

Q Do you recall asking Mr. Parness for that extension of time?

A No. I cannot be too responsible for a lot of details at that particular time. It might have just been the other way around. Mr. Parness might have said, "Look, you better get a little more time to get this money. Three days doesn't seem to be enough." I don't remember.

Q But it would have been Mr. Parness who would have said it, not Stanley or Barbara?

A I don't remember.

MR. ROSEN: Would you mark this as Exhibit 12, please.

(Document marked Exhibit D-12 for identification.)

A I initialed the change, until March 15, 1971 and apparently this must be Barbara and Amsterdam's initials. I don't think it is in issue. If you will look at it, you will see.

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Q I know what it says.

A Well, then, you will see my initials there.

Q I show you Exhibit 12, Defendant's Exhibit 12, for identification, and ask you to look at that. Does that refresh your recollection that the agreement between you and Mr. Parness, who was being represented in this agreement by Miss Landew and Mr. Amsterdam, was to February 4, 1971, for you to repay that money, initially, and then was extended until March 15, 1971?

A I answered that before.

Q Would you be kind enough now to answer it again?

A The answer is yes, the answer is yes for the dates, but there's nothing on here that represents Mr. Parness. This is Amsterdam and Landew's signatures.

Q Exactly. But didn't you know then that this was an agreement basically between you and Mr. Parness?

A It is very difficult.

Q Try to answer it even though it is difficult.

A I can't be not only true to myself but true to people here. The events that happened those few days cannot be answered simply, because it was, I was in a fog.

Q Didn't you just testify under oath that originally Mr. Parness was going to have his name on there, with you?

A No, I didn't testify to that.

Q Well, isn't that a fact?

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A What is the question now, you just said that I testified under oath--

Q Is it not a fact that the pledge of the stock was going to be taken in your name and in Mr. Parness' name?

A I covered that, that answer is covered with my last answer, and that is I can't honestly recall the sequence of events in those few days because of the fear and the insecurity that was within me at that time because of the circumstances.

Q I ask you to look at Exhibit 11 again and is it not a fact--

A I don't recall it even if I signed it.

Q Is it not a fact that Mr. Hamilton was going to act on your behalf and I show you the draft of a letter which--

A I saw that and that whole transaction isn't too clear in my mind. Are you saying that Mr. Parness was personally going to get the $150,000 for me, is that what you are saying?

Q I'm asking you-- what I want to find out is whether you had any doubt in your mind in February of 1971, that notwithstanding the appearance of Miss Landew and Mr. Amsterdam on the document you knew that your arrangement and agreement was with Mr. Parness?

A I would say this, that I had faith that if Mr. Parness wasn't behind getting the money that there would be no money, no matter whose signature was on the papers.

Q I don't understand that answer, sir, I'm sorry. Maybe I just didn't hear it, I'm sorry.

A I understand and I understood this much, I looked for him to get the money because he said he would arrange it. No matter whose name is on there I certainly had the strong feeling that Mr. Parness was going to get this money. Now, whether he was going to lend it to them to lend to me, I wasn't interested in the details.

If your question in substance is do I feel or know in my mind that Mr. Parness was responsible for securing or coming up with that money, most definitely, yes.

Q But you also knew that you were not contracting with Barbara and Stanley as an active party, do you know that?

A You are saying one thing and then you are saying another thing. You show me exhibits and the exhibit, this is a contract. I am contracting here with Barbara and with Amsterdam. Therefore, I know I'm contracting with them. But apparently you weren't listening. I see that in my mind, I might have my doubts where are they going to get this money? I never denied the fact that regardless of what this contract calls for that without Milton Parness

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these people couldn't come up with the money. But I didn't know what arrangement he had with them whether he was lending it to them, I didn't care.

Q But you knew they were acting for Mr. Parness?

A No, I didn't say that.

Q Well, I'm asking you, didn't you know they were acting for--

A If you can't gather from what you have just said--

Q I can't gather from anything, I have to have testimony.

A Well, it was apparent that they didn't have $150,000. I just finished telling you that.

Q You knew they were Mr. Parness' nominees, did you not at that time?

A At that time I didn't care. I didn't give it too much thought. I would say right now, yes. More specifically then I would have said that day-- if you would have asked me that day what went on I wouldn't be interested, I just wanted to know if the $150,000 was going to be put up. It wasn't too important.

Q But you participated, did you not, in discus ons where they discussed using the names of Hamilton instead of--

A I don't remember.

Q If you want to refuse to answer, you can.

A I'm not refusing to answer anything that you asked, I

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just don't remember, it wasn't important at that time that day. I told you that I felt that regardless of contracts, that Parness was responsible to get that money and nobody else.

Q Isn't it a fact that Mr. Parness had, had he stolen $160,000 of your money from marker collections, could have gone directly to Mr. Holzer and taken the pledge?

A I can't answer that question. I don't know what Mr. Parness would do any more than he would know what I would do or what you would do. This is not a fair question to ask me.

Q Mr. Gobemman, if we showed you to your satisfaction a total amount of markers due and owing at February 4, 1971, and established to your satisfaction the amount of money that Mr. Parness sent down to the casino, by that point, and also established what expenses were properly deducted from the amounts actually collected, would you not say that it would be impossible for there to be a balance of $160,000 at February 4, 1971, which Mr. Parness could have stolen from you, if all those elements were established to you?

A Mr. Rosen, I'm really disappointed in you. You asked me a question that no sane man can answer. If you ask this, if you did that, would there be a balance. It is a stupid question.

The truth is what we are all after. I wouldn't lie

whether it is $160 million dollars. You show me a piece of paper and if it is true I would be only too glad to acknowledge it is the truth.

I'm not here to-- do you have those with you? I will be very glad to look at it.

Q I will represent to you, I'm going to subpoena the files of the United Statas Attorney's office ot obtain those documents that you say you supplied to them or were obtained from you.

A You represent--

Q By the way, were you lying about the air ducts when you testified at the trial?

A I beg your pardon?

Q Were you lying about the existence of air ducts at the St. Maarten Hotel?

A I was not lying.

Q You were mistaken?

A No, I wasn't mistaken.

Q Are you aware of the fact that the government conceeded that was not the truth?

A No, I'm not aware of that fact and it doesn't make any difference because the word "duct" was improperly used and because I ran into, I still have the plans of the hotel and the air vent is still there and I'm telling you again, No, I wasn't lying, I didn't lie once. I personally made an

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error in judgement. And after hearing all about this and looking further and I-- you tell me the Government conceeded?

Q Yes.

A I wasn't there when they conceeded. What they do, I don't know. Let me say this, I found the plans, I found the renovation of the plans, and that opening is there. What the government's Attorneys,-- are you aware of the fact that during the trial, Mr. Rosen, that I gave the Court my opinion and my feeling as far as the Government Attorneys were, my feelings were toward the Government Attorney?

Q I think you said they were crazy, you hated them.

A Yes, I said I hated them. I was there because I had to be there.

Where are these checks that you were talking--

Q In light of the fact that you are unable to produce the records that you assume are in the possession of the United States Attorney, I am going to make every reasonable effort to obtain them, so that I can inquire further as to what other records may or may not exist, in respect to the monies and this is particularly relevant to your enlarged amount of $650,000, which apparently has grown from the $350,000 that you testified to at the trial.

I would ask if, the next time we convene, which will be at a mutually convenient date, that you be prepared to substantiate in any way that you can, how the figure grew from

the $350,000 to $400,000 now to $650,000. I'm trying to establish how you even got to the $350,000 and I haven't had much success in asking you these questions.

But your complaint states that $650,000 was collected and due and owing to you.

By the way, this money was not due and owing to the hotel corporation, was it?

A No. You asked me that before and I said no. I think you will find in the beginning of the questioning that you asked that question.

Q Now, what I will do with your consent is I will notify you by mail, and suggest a convenient date. I take it that if I write to Post Office Box 1578, Lancaster, Pennsylvania, that you will receive that mail?

A Yes.

Q And I will tell you now that I will send a copy of that communication to the Court. I will suggest a date and I would appreciate your either acceptance of that date or proposing a realistic alternative so that we can resume.

It may take me a while to get or attempt to get the records from the U.S. Attorney's office, but I will make every effort to do so and schedule a resumption of this examination so that I can try to find out how your fantasy grew from $350,000 to $650,000.

A That wasn't a very nice thing to say. Don't use the

word "fantasy". In addition to that, I will continue trying to get the records from the U. S. Attorney, and I will continue doing so.

MR. ROSEN: All right. Thank you.

(Deposition adjourned. Time Noted 3:30 P.M.)

* * *

ALLAN N. GOBERMAN,

-against-

MILTON PARNESS and
BARBARA PARNESS

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CERTIFICATE

I, JOHN J. KOLLAR, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, swear that the foregoing is a true and accurate transcript of the deposition of WILLIAM F. HAMILTON and ALLAN N. GOBERMAN, who were first duly sworn by me, at the time and the date hereinbefore set forth.

I further swear that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

A Notary Public of the State of New Jersey

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CIVIL ACTION 74 182

ALLAN N. GOBERMAN,

AGAINST

MILTON PARNESS AND
BARBARA PARNESS

DEPOSITION OF:

ALLAN N. GOBERMAN

Ginsberg
9/23/74

NEWARK, NEW JERSEY
SEPTEMBER 18, 1974

B E F O R E:

DORRIS BAVONESE, a Notary Public of the State of New Jersey, at the offices of HERBERT L. ZUCKERMAN, ESQ., 60 Park Place, Newark, New Jersey, on Wednesday, September 18, 1974, at 10:30 A. M., pursuant to Notice.

A P P E A R A N C E S:

ALLAN N. GOBERMAN, PRO SE

MESSRS. SAXE, BACON, BOLAN & MANLEY
BY: MR. ABE ROSEN, ESQ.,
For the Defendants.

ROSENBERG AND ASSOCIATES
CERTIFIED SHORTHAND REPORTERS
60 Bennett Terrace
West Orange, New Jersey 07052

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ALLAN N. GOBERMAN, recalled.

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MR. ROSEN: I would like to indicate, on the record, that Mr. Goberman has been previously sworn, and that this is a continuing examination.

I would like the record to note, prior to going on the record, Mr. Goberman has advised me that he has been unable to secure whatever papers he wanted from the United States Attorney in New York. I would also like to note, on the record, that I am endeavoring, and still endeavoring, to attempt to get most of the exhibits, if not all of the exhibits, that were introduced at the trial, and will probably do so at the conclusion of this examination.

DIRECT EXAMINATION BY MR. ROSEN:

Q I would like to resume questioning you, Mr. Goberman, if you are ready?

A Yes, sir.

Q I would like to ask you whether, at this point in time, you have obtained counsel to represent you?

A Yes, sir.

Q I am aware of the fact that you have made an application to the court, to proceed in forma pauperis, a

least I received some papers that apparently you have filed with the court in Newark, is that correct, you made a motion?

A Yes, I sent you a copy.

Q Could you tell me if that motion was denied or not?

A Well, do you have copies of two applications, referring to the first or second?

Q I have copies of two applications. Especially one received within the last couple of weeks, I think.

A The first one was denied, without prejudice, at which time the judge sent me a dissertation of why he refused to grant this motion, pointing out that I didn't back up some of the facts. One of the main facts was, the fact that I said that I owned property worth about $23,000, against which was placed, approximately, a million and a half dollars in judgments and liens. The judge was quite -- I can't think of the proper word to use --

Q Can't you tell me whether it was finally granted or not?

A If I remember, one was turned down.

Q What about the second one?

A Then I sent him another one, giving him the facts that he felt he should have had in the first one, and I haven't received an answer on that yet.

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Q So you are still appearing here pro se?

A Yes, sir.

Q In this case?

A Yes, sir.

Q Mr. Goberman, back on July 31 of this year, in this very room, during a prior examination of you, at about page 72 of the record, and for the next several pages thereafter, I began to ask you some questions about checks that Olympic had sent to you, or the Casino down there in St. Maarten. At that time, on page 72 and 73 of the transcript, a copy of which I believe I sent to you, am I correct that I sent you a copy?

A I am looking at that now, yes, I have it.

Q You said that you had seen the checks, but you could not remember, and you asked me whether I had the checks to possibly refresh your recollection. At that time, on page --

A Pardon me for interrupting you. You stated that I said, I had seen the checks. On page 73, I said I had seen Olympic checks, I didn't say I saw those particular checks which you said you would get.

Q On page 73, I answered your question, which was "Do you have the check that covers that, show me the checks." I answered, "I don't have possession of the checks". Now, on page 76 I ascertained, from the defendant,

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Milton Parness, that the checks were available. I now have the checks, Mr. Goberman, and I would like to go through them as expeditiously as possible. I would like to show you certain checks and ask you to make some comments about them.

A All right.

MR. ROSEN: I think we ought to begin with D-13, we will mark this check.

(Check dated December 10, 1970, number 186, in the amount of $7,800 marked D-13 for identification.)

Q I show you what has been marked D-13 for identification, as of this date, a check drawn on Olympic Sports Club Inc., number 186, dated December 10, 1970, payable to Allan N. Goberman in the amount of $7,800. I show you this check, and ask you whether you have ever seen it before?

A Yes. I made this check up, this is my handwriting.

Q The answer to the question is, you have seen it before?

A Yes.

Q I ask you to turn it over, is that your endorsement on the back?

A Yes, that is my endorsement.

Q Is it not a fact that the face of the check, save the signature and date, is in your handwriting?

A That's correct.

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Q Is the date in your handwriting, to your knowledge?

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A I don't think so.

Q But the name, Allan Goberman, and the amount, the written out amount, is in your handwriting?

A That is correct.

Q Mr. Goberman, is it not a fact, that this was a disbursement to you from Mr. Parness' Olympic Sports Club made at or about that date, yes or no, please?

A Well, it was a check made to me, yes.

Q Is it not a fact, these funds which were due to you personally out of the Casino down in St. Maarten?

A That could be very possible.

Q Do you know what Mr. Parness gave you the check for?

A No, because it is not marked on the check. But I would say, that if he gave me a check, or $7,800, that it was certainly for my use, I endorsed it.

Q Well, Mr. Goberman, it was in connection with Mr. Parness' activities at the Casino, isn't that clear?

A It very possibly is, it seems -- I see no other reason why.

Q Mr. Parness was not a debtor of yours in any other kind of business relationship, was he?

A No.

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Q So would it not be fair and honest to say, that the checks given to you by Mr. Parness, or on behalf of Mr. Parness, were in connection in some way with his activities down at the Casino?

A I would certainly have to assume that this particular check would have been in, as you say, in connection with the operations of the Casino.

Q Mr. Goberman, did you ever see these checks in the United States Attorney's office, discussing the trial of this case in New York?

A No, sir.

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Q Did you tell the Government that Mr. Parness had given you this check, to your recollection?

A To my recollection, I am not going to say that showing me this check is a surprise to me. I will say, I certainly can't recall receiving this check, I mean it is very difficult for a person --

Q My question, Mr. Goberman, did you tell the Government about this check?

A I'm quite sure I didn't, I don't want to use the word forgotten, I certainly had forgotten that he ever gave me a check for $7,800.

Q You have forgotten?

A Well, certainly. I am not denying that he did, now that I see it. But, I would say, prior to this, if you

were to ask me did Mr. Parness give you a check for $7,800, I would probably have to say, to my best recollection, no. What was that date?

Q The check is marked December 10, 1970 on the front, and apparently negotiated at the Bank of Nova Scotia, in St. Maarten, on December 14, 1970. Would you like to see it again, Mr. Goberman?

A Four days difference?

Q I would say it is about four days difference.

A December 1970, correct?

Q That is what the check says. Would you like to see it again?

A No. Unless you want to give me a photostatic copy of it, it is up to you. Excuse me, just a moment, the last time I was here, I believe, you said you had bookkeeping records reflecting checks you were going to show me. Is that correct, Mr. Rosen?

Q I believe I referred to Olympic books, I didn't have the checks.

A Yes. Now, in the Olympic books, what does the disbursement call for?

Q Mr. Goberman, I am not here to answer any of your questions.

A It is all right with me. I thought it would make

it easier for me to recollect.

Q Mr. Goberman, I again show you D-13 for identification, and ask you whether you recognize the signature that appears on the check, of the maker of the check?

A Yes.

Q You do recognize the signature?

A Well, I'm quite sure this is Barbara Landau's handwriting.

Q Now, at the time you received that check, did you also notice that Miss Landau had signed the check, if you can remember?

A I can't.

Q It was no surprise to you, Mr. Goberman, that Miss Landau had signed that check?

A No, because I understood, at that time, that she was part of Olympic Sports Club.

MR. ROSEN: Mark this as D-14, please.

(Check dated December 8, 1970, number 184, in the amount of $10,000 marked D-14 for identification.)

Q Mr. Goberman, I show you what has now been marked D-14 for identification, as of this date, which is a check drawn on Olympic Sports Club, dated December 8, 1970, check number 184, payable to the St. Maarten Isle Casino, in the sum of $10,000, signed by Barbara Landau. I ask you whether

J 168 you ever saw this check before?

A That would be a little difficult, to identify this check, because it is made out to the Casino, and it was handled by Johnny Blandino. I would have to assume that this went through the Casino account, because Johnny Blandino had endorsed it, even though I may not have seen it, I may not have been at the hotel at that time. Johnny Blandino was the controller, he was the manager of the Casino, and I don't recall seeing this particular check. However, I don't deny it, in all probability it could have gone through the Casino account. Johnny Blandino had the authority to cash checks pay bills, and handle the money in the Casino.

MR. ROSEN: Mark this next one D-15.

(Check dated November 16, 1970, number 172, in the amount of $7,250 marked D-15 for identification.)

Q Mr. Goberman, before I get into the next check, I noticed that you are referring or looking through several yellowish folders there, contained by rubber bands. Can you tell us what you are using to refresh your recollection, or why you are looking through these documents, and what is contained in them?

A Yes, I'd be very happy to. Apparently these are -- some of these are duplicates, or originals of some of the duplicates that you showed me the last time I was here, that

I have been able to locate. J 169

Q Did you get them from the Government?

A No.

Q You did not get them from the Goverment?

A No.

Q Have you ever shown them to the Government?

A I can hardly remember that. They must have seen these, or most of these, because the Government apparently had copies of most of these which you showed me the last time we were here.

Q Were these documents that you turned over to the Government, pursuant to the subpoena that was served on you?

A I can't tell you that, because they are not marked.

Q Mr. Goberman, you would know whether or not these were turned over to the Government, or at least some of them?

A I would say, yes, some of these the Government had, at one time. When you say turned over, if I have them, the only reason I would say that, I have them because if they made copies, they made copies of them while they were in my office interrogating me, by using -- they have a camera, you know, that they take pictures with. Others were subpoenaed and taken out of my office, that you saw, that you showed me copies of.

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Q Has the Government returned any documents to you, since this lawsuit began?

A I have looked, and I can't seem to find any.

Q Well, have you received any communications, from the Government, containing any records?

A I showed you the last communication I received.

Q Containing records?

A Not that I know of.

Q Returning anything to you?

A Not that I know of.

Q Who would know, Mr. Goberman, if not you?

A I say the Government, if you want to use the term Government.

Q In other words, you are saying, if the Government did return certain records to you, and mailed them to your last known address, you wouldn't know if you received them?

A I don't remember receiving any.

Q I show you what has been marked as Exhibit D-15 for identification, as of this date, which is Olympic Sports Club check dated November 16, 1970, number 172, in the amount of $7,250. I ask you, whether you have ever seen that check before, yes or no, please?

A I don't want to give you a fast yes or no. I am trying to recollect. If there is any possibility I might have

seen it, I am trying to remember, and if I remember seeing this check I would say so. I would say that I don't remember seeing this check.

Q I asked you to look on the back, is that check not endorsed by Mr. Blandino, your Casino controller?

A Yes.

Q Did it not clear the Bank of Nova Scotia in St. Maarten?

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A Yes.

Q Does it not in fact bear a notation, that it is for the Casino, on the front of the check?

A No.

Q Does it bear a notation that it is for the St. Maarten Isle Hotel?

A No, it says St. Maarten Isle.

Q Well, did Mr. Blandino have authority to cash checks and make deposits into the Casino account?

A Yes.

Q All right.

A In all probability, this check would have gone into that account.

MR. ROSEN: Mark the next one, please.

(Check dated November 24, 1970, number 178, in the amount of $15,000 marked D-16 for identification.)

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Q Mr. Goberman, I show you what is marked D-16 for identification, as of this date, Olympic Sports Club check number 178, dated November 24, 1970, payable to the Casino, in the sum of $15,000. Have you ever seen this check before?

A No, sir.

Q I ask you to turn this check over and tell us whether you recognize the endorsement on the back thereof?

A Yes, sir.

Q That endorsement is made by Johnny Blandino, the Casino controller?

A That is correct.

Q Did he not make deposits and cash checks on behalf of the Casino?

A Yes, sir.

MR. ROSEN: Mark this, please.

(Check dated January 6, 1971, number 196, in the amount of $15,000 marked D-17 for identification.)

Q Mr. Goberman --

A Let me make a statement in reference to these last checks that I said I did not see. Apparently these checks were used to the account of the Casino, and it is very possible that I did not know that these checks were given to

Mr. Blandino by Olympic, and that is the reason why I don't recongize those checks.

Q Well, Mr. Goberman, were you aware, at the time, that these monies came into the Casino?

A Not all these checks. I knew some money was coming in, but I would have to acknowledge that these checks, if they were given to Blandino, that they certainly had to go to the credit of the Casino.

Q Either that, Mr. Goberman, or Mr. Blandino stole the money?

A One of the two, I'm quite sure he didn't steal the money.

Q All right. I show you what has now been marked as D-17 for identification, as of this date, check of Olympic Sports Club dated January 6, 1971, check number 196, payable to The Casino, in the sum of $15,000. Have you ever seen that check before?

A Is this another one?

Q Yes, it is another one.

A No.

Q Do you have any doubt that it was paid by the bank in Nova Scotia, look at the back, please?

A It has their stamp, the Bank of Nova Scotia, yes.

Q Were you aware of the fact, that those funds were received by the Casino, or Mr. Blandino, at or

174 about that time?

A Mr. Blandino's endorsement isn't on here.

Q I see that.

A I can't say I was aware of the fact, I am surprised that there are these many checks that I didn't know about.

MR. ROSEN: Mark this, please.

(Check dated December 31, 1970, numbered 197, in the amount of $25,000 marked D-18 for identification.)

Q Mr. Goberman, I show you what has now been marked D-18 for identification, as of this date, check from Olympic Sports Club, drawn to the order of The Casino dated December 31, 1970, check number 197 in the amount of $25,000. I ask you whether you have ever seen that check or recognize anything about that check?

A I don't recall seeing this check.

Q Do you recognize the endorsement on the back of the check?

A It is endorsed by Johnny Blandino, and it was paid through the Bank of Nova Scotia.

Q Were you aware of the fact that these monies were made available to the Casino by Olympic, at that time?

A Not in these amounts.

MR. ROSEN: Mark this, please.

(Photostatic copy of check dated January 11, 1971, numbered 198, in the amount of $12,700 marked D-19 for identification.)

Q Mr. Goberman, I show you what is now marked D-19 for identification, which is a photostatic copy, the front and back apparently, Olympic Sports Club check number 198, dated January 11, 1971, payable to the Casino, in the sum of $12,700. I ask you whether you have seen the original or copy of this check, or recognize anything about it?

A This check didn't go through my hands, as far as I know.

Q Do you recognize anything about the endorsement on the back?

A Yes, endorsed by John Blandino, St. Maarten Isle Hotel Casino, John Blandino, apparently credited to the account, deposited, at the Bank of Nova Scotia. The bank stamp seems a little different than the others.

Q Were you aware, at this time, that this sum of money was made available to the Casino account?

A I don't remember.

MR. ROSEN: Mark this, please.

(Photostatic copy of check dated January 14, 1971, number 208, in the amount of $37,000 marked D-20 for identification.)

Q Mr. Goberman, I show you what is now marked

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D-20 for identification, as of this date, which is a photocopy of the Olympic Sports Club check number 208, which apparently is dated January 14, 1971, payable to St. Maarten Isle Hotel Corporation, in the sum of $37,000. I ask you whether you have ever seen that check before?

A Yes, I recognize this check, because I filled the check out, that is my handwriting.

Q In fact, you got the money. Is that correct?

A And it was either cashed or deposited to the Bank of Nova Scotia, that's correct.

Q For your use, or the use of the Casino?

A For the use of the Casino.

Q Mr. Goberman, I don't have a copy of the next check that I want to refer to, do you have any recollection of a check of the Olympic Sports Club numbered 199, dated January 22, 1971, in the amount of $42,000?

A What date?

Q January 22, 1971, yes or no?

A I can't say yes or no. I don't remember. You don't have the check?

Q I don't have it at this moment.

Mr. Goberman, did you, at any time, discuss with the Government, in preparation for Mr. Parness' trial, or prior thereto when you were being interrogated by the

Government Agents, these checks that I have just shown you, and you have spoken about, or the amounts involved?

A I don't believe so.

Q Did the Government ever ask you whether Mr. Parness had sent monies down to the Casino?

A I don't recall that, whether he did or not.

Q Are you denying that they did ask you how much money, if any, Mr. Parness sent to the Casino?

A I am not denying, I don't remember whether I was asked that question or not, they may have, I don't remember.

Q Mr. Goberman, based on my additions, which might be faulty or not, the checks starting with D-13 and ending with D-20 total an amount of $171,750. Subject to your rechecking it, would you accept that figure?

A I will accept that figure, yes, sir.

Q Assuming that is an accurate total of the several checks we have been talking about, were you aware, at or about the time that we are discussing, that these monies were sent by Olympic down to the Island?

A No, sir.

Q Were you aware that these funds were used, or could have been used on behalf of the Casino?

A No, sir.

Q When you testified at the trial of Mr. and Mrs. Parness, in the Southern District, and you estimated

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that some $350,000 was in and owing by Mr. Parness, on the marker collections, had you taken into account or credited this sum which was sent down to the Island by Mr. Parness?

A I don't remember whether I did or not, but I don't think, at this time, I don't think it was taken into consideration.

Q Assuming, Mr. Goberman, that these checks are what they are, would it be fair and honest to say that your figure of approximately $350,000, which was used at the trial, did not take into account these sums of money that Mr. Parness forwarded to the Island and should have been reduced by that amount?

A Well, not knowing the use of those checks, I would say that that is a possibility, that those checks should have been credited, if they were used as the endorsements apparently claimed they were used.

Q Now, did Mr. Parness ever give you $10,000 in the City of New York for a Mr. Weinstein or Mr. Weinberg?

A Mr. Weinberg.

Q Did he ever give you $10,000 for him?

A Yes.

Q He did. Can you tell us when that occurred, approximately?

A No, I don't remember the date. But I do remember --

Q Could you tell us where?

A I beg your pardon?

Q Where he gave it to you?

A 1650 Broadway. I asked for $10,000 to give to Mr. Weinberg, who was supposedly getting a six million dollar permanent mortgage on the hotel for me.

Q And Mr. Parness made these funds available to you, the $10,000?

A Yes.

Q Do you know the source of those funds?

A It was Casino collections.

Q You knew, at that time, that the funds did come out of the marker collections, did you not?

A Yes. As a matter of fact --

Q I didn't ask you as a matter of fact, Mr. Goberman, just answer my questions. If you want to say anything --

A I wanted to elaborate on it, but it is all right.

Q But you are destroying my trend of thought, maybe not intentionally, but I would like to get my questions out, and if you want to add anything, especially since you don't have a lawyer here, I will let you do it. I want to finish what I am trying to get out here.

In this $350,000 figure that you used at the trial, did you give Mr. Parness credit for that $10,000?

A No, I did not.

Q Now, is it now a fact, that you relating to the $171,750 in checks which we just discussed and this $10,000, would also have to reduce your claim, in your complaint in this case, by that amount of money?

A I would say definitely, that the first check that you showed me, number --

Q D-13?

A In the amount of $7,300 --

Q Yes.

A And the $10,000, would definitely have to reduce that amount. The other checks, as I said to you, I didn't know the amounts or how many checks went through the Casino operation, at that time. If they were used for the Casino operation, I would have to, as I said previously, I would have to admit that they were used and should be deducted.

Q Mr. Goberman, you consider yourself a rather astute businessman, don't you?

A Not anymore, Mr. Rosen.

Q Well, you did consider yourself an astute businessman when you made all those millions that you testified about, to be an astute businessman?

A Well, now, Mr. Rosen, are you being facetious, or what are you being?

Q Mr. Goberman, I am asking you --

A Are you becoming personal? Are you asking me whether

I am smart or stupid. I would say I am stupid. J 181

Q Well, Mr. Goberman, I think you are stupid like a fox. Is it your testimony, that you didn't know what these funds of $171,000 was being used for --

A That isn't what I said at all.

Q Well, do you have any proof that they were not used for your casino?

A I did not -- you are not listening. I said that there is every reason to believe that they were used to the account of the Casino, without my knowing, because there was so much money going through at that time, and I had other problems that I was attending to, I left the operation of the Casino up to Mr. Blandino. I am not denying --

Q Is it your --

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A Let me finish. If you interrupt me, I lose my trend of thought, Mr. Rosen.

Q -- All right.

A I do not deny that these checks, I admit the first $7,800 check, I just forgot, I am only human. I am not denying that these checks didn't go through the Casino, I am saying they could have gone through the Casino account, without my knowledge.

Q You also happened to conveniently forget, did you not, about the 37,000 --

A I won't accept that question, when you use the term

J 1821

"conveniently forgot". I don't conveniently forget anything, I'm trying to give you the true facts. That is the expression you use, isn't it true, let's keep it on that basis.

Q You also forgot about the $37,000, which is D-20, did you not, the one that you yourself wrote out?

A No. I didn't say I forgot that. I believe I could run this one down.

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Q In other words, --

A It is very possible that this had been taken off.

Q When you talked to the Government, did the Government show you copies of the checks to which you have just referred?

A I prefer you use the term, talk to the U. S. Attorney, number one.

Q When you talked to the U. S. Attorney --

A The U. S. Attorney, to the best of my knowledge, did not show me any checks of Olympic. If they did, and I was an astute businessman, dumb as a fox, I would remember those checks. I just want a second on this. Mr. Rosen, I think you will find, I am not sure, but I think you will find, if you look at the copy of the exhibits that the U. S. Attorney used at the trial, there is a possibility that this particular check of $37,000 -- because I remember making this out, it was credited.

Q Well, did you --

A As a payment to clear up the junket, I'm not sure, I don't have the records in front of me. I did not conveniently forget about this at all.

Q I am asking you, Mr. Goberman, whether you had any discussions with the U. S. Attorney --

A I had no discussions with the U. S. Attorney about any Olympic checks, they didn't show me any checks.

Q Mr. Goberman, was it not a fact, at that time, that you knew about this check that you have in your hand, D-20 for identification?

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A I am reasonably sure that the U. S. Attorney didn't pinpoint checks from Olympic.

Q Well, didn't the U. S. Attorney ask you how much gross pickups you ascertained were due from Mr. Parness, during the period in question?

A I think you will find your answer in the copies of the junket sheets that you have.

Q I am asking you a question, didn't he discuss with you what the gross figure was and how you arrived at it?

A I really don't believe he did.

Q Then it would be fair and honest to say, that he didn't ask you what should be offset against that gross figure?

A It would be fair and honest to say, to the best of

J 184

my recollection, I don't honestly recall being asked directly for the records of these checks that you are showing me, the Olympic checks.

Q Now, can you give us a total close pickup figure that Mr. Parness was responsible for picking up, for the period, let's say, October through the beginning of February, October 1970 through February 9 of 1971?

A No, I can't, because I don't have any more information now than I did when I was here on July 31.

Q Is it your testimony now, that these documents that you had in your folder before, do not contain that type of information?

A No, no, sir.

Q Subject to correction, from either you or I on these figures to be mathematically correct, if I suggest to you, Mr. Goberman, that the gross figure you picked up on markers by Mr. Parness, from October 11, 1970 to January 31, 1971, is the sum of $233,346.10, if you accept that figure, subject to any corrections --

A I accepted the additions and subtractions that you are talking about.

Q If you accept that figure, that that was the total gross pickups that Mr. Parness --

A Where did you get that figure?

Q I say if you accept that figure --

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A Go ahead.

Q Mr. Goberman, I am advised that this is the total that shows up on the copies of exhibits that the Government has furnished us.

A Is this what we discussed on July 31?

Q I believe that is the exhibits that were previously marked.

A Can we find it in here? I think we discussed that figure, it was a $350,000 gross, and I believe you deducted some expenses.

Q Let me find it, Mr. Goberman. I can't find it in the record. Mr. Goberman, where we discussed this figure, but my addition in totaling up all the pickup numbers in the columns that are entitled "pickup" on the documents which the Government furnished to us, as possible exhibits at the trial, and I think they have been marked here as D-1 through D-10, subject to correction, I will tell you that they total the sum of $233,346.10 to be picked up by Mr. Parness for the period in question, that is October 11, 1970 through January 31, 1971. Now, are there any other documents that you are aware of, which would increase that figure in any way?

A Well, I have to take your word that this is the figure, I don't know whether you got all the documents that the U. S. Attorney had in his possession. If you want to use that particular figure, that is up to you.

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Q I want to use that figure, Mr. Goberman.

A You may use it.

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Q From that figure, I would like to ask you whether or not, based on what we did last time we were here, expenses for air fares and ten percent commissions to the junketeers, and $50 a head should not come off of that figure, since there is nothing to indicate in D-1 through D-10 that they were paid for it at the Island?

A I believe I agreed with you, that there was nothing to indicate that, and I believe I told you, without looking into the deposition of July 31, that there was a possibility that that credit should be given.

Q Now, if I suggest to you that these figures are again subject to verification in mathematics, if I suggest to you that there was some $85,000 in these type of expenses, for air fare, junketeers commission, the head tax, so to speak, that would come off the $233,000 figure?

A I believe I indicated, that there was nothing in the records that you had shown me that would indicate or prove that Olympic was given credit for that amount, if they hadn't been, a strong possibility they had not been, then it certainly should be credited to that account.

Q In addition, as a further credit as we have just discussed, would it be fair and honest to say that the sums encompassed by these checks, which ostensibly were

paid on behalf of the Casino, should also be deducted from the gross collections, or from the amount that you say Mr. Parness had to remit to you?

A I would go along with the same trend of thought, in the same answer that you gave on the 85,000 some odd dollars.

Q Now, is it also not a fact that in this Norber Group, coming out of Detroit, lost a couple of hundred thousand dollars down at the Casino in late 1970?

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A I believe the sheets indicate that, yes, sir.

Q And is it not a fact, I think you testified to it before, acknowledged this before, that just prior to February 4 of 1971, $60,000 of that total loss was being transmitted from Detroit, or wherever, to you here in New York?

A That is correct.

Q And that sum of money never reached your hands, nor did it reach Mr. Parness' hands?

A That is correct.

Q Is it not a fact, that as a further deduction from the monies that you say Mr. Parness owes you, that sum of $60,000 should be taken off the gross sum?

A I believe I told you in the prior deposition, that I wasn't sure whether that $60,000 was credited. I'll say, if it was not credited, then it most certainly should be credited and taken off.

Q Well, I read you from your trial testimony,

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do you remember that the last time we were here?

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A No, sir.

Q You don't remember that?

A No.

Q Mr. Goberman, I direct your attention to page 82 and page 83 of the prior deposition of July 31. Notwithstanding the fact that the stenographer has a Mr. Sealy, transposed instead of Mr. Selik, I was asking you there whether or not you credited, or you should deduct from the $350,000 figure, the sum of $60,000. And at that point, you said that you didn't know whether you had deducted it or not. Is that correct?

A On page 82?

Q Page 82 and 83.

A Where did I say this? I would rather read the whole thing. What line did I answer that?

Q I refer you to line 10 and 11 on page 83.

A Now, your question was what?

Q You previously testified that you don't know whether the $60,000 sum of money that was intercepted by the Government, was deducted by you from the figure of $350,000?

A That's correct.

Q Is it your testimony, that you still don't know whether you deducted that figure when you testified at the trial in New York against Mr. Parness?

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A No, I don't remember whether I said, at that time, it was deducted or not.

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Q Did you deduct, for example, Mr. Goberman, from the $350,000 figure, the $25,000 paid by Mr. Parness to Quality Foods?

A I can't remember that.

Q In other words, you are telling me now, that you don't know what your basis was, when you testified at the trial to come to that $350,000 figure?

A No. You are putting words in my mouth.

Q Can you tell me now how you came to that $350,000 --

A I can't tell you any different now than I could tell you on July 31, because I don't have the records.

Q What records do you need that would reflect that $60,000?

A The same records that I used to come up with the figures, that I used at the trial.

Q In other words, it is your testimony that you justified your figure when you spoke to the U. S. Attorney, based on certain documents?

A I would say that they justified it.

Q They gave you the figure?

A No. By looking at the records, see what they came up with also.

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Q In other words, the $350,000 figure was the Government's suggestion, as well as what you corroborated. Is that correct?

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A It was $400,000, it wasn't $350,000. If you have copies of the junket records that the U. S. Attorney had, I think if you added that up, it would come to $400,000. And, I believe, at the trial I testified, I was asked by your attorney whether that entire $400,000 was collectible, and I said, there is a possibility that ten percent of it would not be collectible, I believe you recall that. That is how we got to the $350,000 figure. Now, to go further, you are showing me checks here that I can honestly say I have never seen before, and there is a strong possibility that these checks should have been credited against that $350,000.

Q Permit me to stop you here.

A All right.

Q So what you are telling me, in essence, I am not retrying the criminal case, I am only concerned with what I consider an outrageous civil litigation brought against the Parnesses, would it be fair to say that whatever credit you are now crediting, or could credit toward the $350,000, certainly would have to be credited toward the $650,000 figure which you allege in your complaint in this case?

A Yes.

Q Mr. Goberman, let me ask you this question:

I ask it only on the basis of an assumption, because I can't verify to you that I have all the records that the Government has, I believe I have all the records, and those records total $233,000. Let me ask you this: If the total sum revealed in the papers that the Government has, or had, or ever had, amounts to $233,000, up to February 9, 1971, to be collected and remitted by Mr. Parness to you, would you accept that as a gross amount figure, if that was revealed in the Government papers?

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A Yes.

Q And in that event, the sum of $400,000 or $350,000, was either an error or a wrong figure, if that is the way the Government has it in their papers?

A Well, one of the two figures would have to be an error, would they not?

Q I am asking you the question.

A I am asking you, what one of the two figures would have to be incorrect. You have copies of the records, this is what you come up with --

Q Mr. Goberman, I don't represent to you I have a copy of all the documents the Government has. I have exhibits which I have marked D-1 through D-10, they are the only ones I am aware of, that shows a gross amount of pickups by Mr. Parness. If my calculations, subject to mathematical corrections, show $233,000 that Mr. Parness was to pick up in

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total during that period, and if that is the figure revealed by the Government papers, that would be the figure, would it not, that Mr. Parness had to pick up?

A If they were all the papers I would say, yes. If they were all the papers involved.

Q So that the figure of $350,000 or $400,000, or $650,000, would be an error, would it not?

A Not necessarily.

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Q How do you explain the difference, Mr. Goberman? Let me withdraw that question and ask you another: Do you have any knowledge of any collections to be picked up on markers by Mr. Parness, that are not revealed in pieces of papers which we call Casino worksheets?

A I don't have them here.

Q Where do you have them?

A I don't have them.

Q So you are not aware of any --

A I am not unaware and I am not aware. When and if the time comes that I can get all my records back from the U. S. Attorney, but until which time I have those records back, I have to go along on the records that you say you got copies of from the U. S. Attorney, that you used at the trial.

Q Would it be fair and honest to say, Mr. Goberman, there is no way you can presently substantiate the figure of $650,000, which is mentioned in your complaint?

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A Not sitting right here.

Q Do you have any knowledge of where you could go or look to substantiate that figure?

A I am still working on that.

Q Mr. Goberman, is it not a fact, did you enter into a Casino Operating Agreement between yourself and the St. Maarten Isle Hotel Corporation in 1970, which delineated the rights and obligations of each separate entity, the Casino and the corporation, are you aware of entering into such Casino Operating Agreement?

A I believe you have there -- the answer is, no, based on the fact that what you are looking at is an agreement that the attorney and managing director of the corporation made up and was supposed to follow through, but it was never signed and never followed through. If you have in front of you the one that I am thinking of --

Q Well, I don't know if you can read upside down, Mr. Goberman?

A Well, I can read upside down.

Q Is it not a fact, --

A Is it signed, Mr. Rosen?

Q No, that is what I am going to ask you now. Do you have any signed or duly executed copies of any agreement that you entered into with the hotel corporation?

A No, sir.

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Q Is it not a fact, however, that you were the operator of the Casino?

A Oh, of course I was!

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Q Personally?

A That's right. I think I answered that before, at the last deposition.

Q Did you have any partners in the Casino?

A No.

Q None. The hotel corporation was not your partner in that Casino, was it?

A No. I think I explained that to you before, that a casino license in the Netherlands Antilles can only be made to an individual, and a corporation per se cannot be part of that license.

Q Would it be fair and honest to say, Mr. Goberman, that whatever sums of money were to be collected by Mr. Parness, on markers which were generated in and out of that Casino, were due to you and not the hotel corporation?

That's correct. I believe I answered that question before, in your July 31 deposition.

Q Do you recall, Mr. Goberman, giving an affidavit in a lawsuit in New York, when Mr. "Holzer" was foreclosing the pledge of your stock, the affidavit to the effect that you were anticipating receipt of approximately $100,000 from the Detroit group, which was to be used by you

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to pay off the "Holzer" loan. Do you recall giving such an affidavit?

A No, sir.

Q You deny that you did?

A I am not denying that I did. What was the question that he asked me?

(Whereupon the reporter repeats the question.)

Q Maybe I can refresh your recollection, this affidavit was used by your attorney, at that time, to delay this "Holzer" foreclosure. Does that help refresh your recollection?

A You didn't give me the proper facts.

Q You tell me what the facts are?

A The facts were, I mentioned there was $60,000 coming, not $100,000.

Q And this $60,000 you were going to use. Is that correct?

A Certainly hoped to use it, yes, if I got it. That was the $60,000 from Mr. Selik.

Q Mr. Goberman, at this time I have no further questions on this deposition. The only thing I would like to advise you, number one, since I don't have any verification that I have all the Government records, I am going to reserve my right to inquire into these things, should I

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obtain anything, in addition to what I already have.

Number two, I have to advise you, if you had a lawyer, he could now cross examine you and bring out any facts that he would like to put on this record, which would explain anything that I have asked you about, or further your interest in this lawsuit. You are the plaintiff, and it might be his wishes to ask you certain questions which would establish the allegations in your complaint. I must further advise you, in my experience, lawyers don't generally do that, but if you had a lawyer he might ask you to do that. It has been my experience that once you have been deposed by the other side, your lawyer, if you had one, wouldn't necessarily go into additional facts, he would just leave it alone, but I have seen it happen the other way. If you want to examine yourself, or make any corrections to what has already been testified to today, and also I would just assume that you read the transcript that I forwarded to you, if there are any errors that you want to correct on the record, I will be sending you this examination for your signature, that you have to sign in front of a notary, and at that time any written changes on there, before you sign it, if anything is not reported the way you said it.

I think in all fairness, I won't give you my personal reaction to your lawsuit, in all fairness I think you have a right to basically either examine yourself or make

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any statements that you wish to further your interest in this lawsuit. I can't stop you. Let me advise you, Mr. Goberman, that basically it is my opinion that your allegations that Mr. Parness did not turn over some $650,000 to you, is something you would have to prove at a trial, and without being able to establish that $650,000 was, number one, owed to the Casino, number two, collected by Mr. Parness, number three, not paid over to you, I suggest to you that you might fail in that kind of proof. Now, again, you have any right to do what you want here. Since you haven't served Mr. Parness with a Notice to take his deposition, I won't let you ask him any questions, but you can say anything or pretend you have a lawyer here and are responding to his questions. I do not have to say anything, it makes it difficult for me to try to advise you in this kind of a situation.

A Well, I don't think we are here to try my complaint, I am here at your request, I must come to answer questions, and I have done my best to answer them honestly and to the best of my recollection. As to the validity of the trial, or my complaint, I don't think we want to get into this, at this time.

Q I am not testing the validity of the trial, Mr. Goberman, I am testing your complaint where you charge Mr. and Mrs. Parness.

A I don't care to go into that, at this time. I have

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nothing else. Doing the best I can, I don't foresee having an attorney, certainly I would not have requested the motion to proceed in forma pauperis.

Q Mr. Goberman, I think I should advise you that it is my understanding of the Federal Rules of Civil Procedure, that should you come into possession of any documents that I have requested, that you have not furnished, it is your duty to make copies of them, or the originals thereof, available to us. I have to make that note on the record, that I would expect that if you should come into possession of these records you would notify us and make them available to us, especially those records which would indicate what monies were to be picked up by Mr. Parness.

A I had that understanding all along, I would certainly intend to do so.

MR. ROSEN: At this time the examination is closed. I will furnish Mr. Goberman with a copy of the transcript. On the record, I am going to request Mr. Goberman, when he receives the final edition of this deposition, he return the original thereof, which he will send duly executed, and the same will be filed with the court.

THE WITNESS: I want to add one thing about the deposition, I read it over, not minutely, there are a number of errors, I would say that, to

the best of my knowledge, transposing of words by the clerk --

MR. ROSEN: You make any corrections you want to on the deposition.

THE WITNESS: Yes.

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I, DORRIS BAVONESE, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the deposition of ALLAN N. GOBERMAN, who was first duly sworn by me, at the place and on the date hereinbefore set forth.

I further certify that I am neither attorney nor counsel for, nor related to, nor employed by any of the parties to the action in which these depositions are taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in the action.

A Notary Public of the State of New Jersey

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 74-182

ALLAN N. GOBERMAN, :

Plaintiff, :

vs. :

MILTON PARNESS and BARBARA PARNESS, :

Defendants. :

. . . . . .

DEPOSITION OF:

JOHN BLANDINO
ALLAN N. GOBERMAN

November 7, 1974
Newark, New Jersey

endleton
20/74

A P P E A R A N C E S:

MR. ALLAN N. GOBERMAN (Pro Se)

MESSRS. SAXE, BACON, BOLAN & MANLEY,
BY: MICHAEL ROSEN, ESQ., Of Counsel
Attorneys for the Defendants

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I N D E X

WITNESSES	DIRECT	CROSS
JOHN BLANDINO		
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ALLAN N. GOBERMAN		
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FOR IDENTIFICATION		PAGE
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P-1	Letter dated Oct. 14, 1974	75
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P-3	Letter dated Oct. 29, 1974	76

(Before JOSEPH NATALE, a Notary Public and Certified Shorthand Reporter of the State of New Jersey, taken at the office of HERBERT L. ZUCKERMAN, ESQ., 60 Park Place, Newark, New Jersey, on November 7, 1974, commencing at 11:00 A.M.

- -

J O H N B L A N D I N O, Sworn.

DIRECT EXAMINATION

BY MR. ROSEN:

Q Mr. Blandino, where do you reside?

A I live in 5500 Ocean Shore Boulevard, Florida.

Q Mr. Blandino, 1970-1971 were you connected with the St. Maarten Isle Hotel Casino?

A Yes, I was.

Q For background purposes, would you tell us when you first became acquainted with the Casino and the period of your employment there?

A Well when I first went down to St. Maarten I arrived there in April of 1969. I was hired in the capacity of Executive Assistant Manager and after we opened the hotel, which was in January the 14th of 1970, I continued in the same capacity until September or October, to the best of my recollection, then I became associated with the Casino.

Q Mr. Blanolino, is it your testimony that you had a dual relationship down in St. Maarten, them, one with the hotel and a separate relationship with the Casino?

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A Yes.

Q So these were two separate entities--

A Yes.

Q --as far as you know?

A Yes.

Q Now tell us what you did at the Casino and for what period of time you functioned at the Casino?

A Well I was moved over by Mr. Goberman, like I said before. It was either September or October of 1970, to be the controller of the Casino and I stayed in the same capacity until I left in January of 1973.

Q What were your duties as Casino controller?

A Mostly since we're dealing with junket it was handling the junkets and their credits and counting the money in the Casino and making the payroll, everything on a day-to-day operation.

Q Were you Casino Controller in 1970?

A Yes. I started in that capacity, I would say, September or October.

Q Of 1970?

A Yes.

Q You continued in that capacity until you left?

A Yes.

Q Mr. Goberman was or was not your boss?

A He was my boss, yes.

Q In the Casino?

A Yes.

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Q By the way, were there any other employees of the Casino who assisted you in any way with the day-to-day operation?

A Yes. I had a secretary, her name is Bernadette Gumbs.

Q Bernadette what?

A Gumbs.

Q Gumbs?

A G-u-m-b-s.

Q Was there anybody else at the Casino who was there day-to-day and would have some sort of a responsibility to oversee what was going on?

A Yes. At the beginning, if I remember correctly, we had a Casino Manager, his name was Harvey something, I don't remember his last name.

Q Who did he work for?

A He worked for Mr. Goberman.

Q Tell me what, to the best of your knowledge, what this lady Bernadette, what were her functions?

A Well she assisted me in making the sheets for the junkets, establishing the credits from the sheets we got from the New York Office, counting the money, she would count the money with me, setting up all the chips and everything that had to go out in the evening, making the

J 206

payroll and any secretarial work that came up she would handle.

MR. ROSEN: For the record, in light of the fact that Mr. Goberman is not represented by Counsel here, you will, if you so desire at the conclusion of Mr. Blandino's examination, ask him any questions that you think important enough to ask.

Q Mr. Blandino, I show you what has been previously marked as Defendant's Exhibit 1 for Identification, as of July 31, 1974. It's a compilation of xerox copies, apparently, of certain pieces of paper and sheets which on the first page bears a legend "Exhibit 167 United States District Court SDNY which stands for Southern District of New York."

I show you Defendant's Exhibit 1 and ask you whether or not you have ever seen that compilation of papers before? Just look through it, please.

A I think I have seen it before. The handwriting on these papers is not mine.

Q Well would you look through all the papers and--

A Okay.

Q --in that Exhibit, please.

Have you looked at all the papers?

A Yes, I have.

J 207

Q Could you tell us generally what Exhibit 1 for Identification is?

A Well these are junket sheets and it has the name of the players that came down in the junket.

Q Well for what junket, Mr. Blandino, can you tell for what junket or junkets?

A Well it has the date up here on the top of the sheet.

Q Well would you tell us, please, what it is?

A This one is 10/17.

Q What year, please?

A 1970. This one is October 14, 1970. This one is 10/11/70. 10/15, 1970. 10/17, 1970. 10/18, 1970. That's all.

Q Is there any of your handwriting on any of those pieces of paper which comprise that Exhibit?

A No.

Q Do you recognize anybody's handwriting on them?

A One of them looks like it's Mr. Goberman's handwriting on some of them.

Q Well can you- -

A This looks like Mr. Goberman's. (Indicating)

Q Mr. Blandino, put on the bottom of each page your initials on any page which you recognize Mr. Goberman's handwriting, if you can.

J 208

A Okay, I'll try.

Q Put your initials.

A (The witness complies.)

Q Have you so marked each page --

A Yes, I have.

Q --that you have recognized Mr. Goberman's handwriting?

A Yes, I have.

Q Now could you tell us from Exhibit 1, which you have before you, what, and if you need a pad and pencil, I would supply them to you, could you tell us from that Exhibit what the gross win for the Casino was for those junkets?

Take whatever time you need.

A Do you have an adding machine?

Q Would that be easier?

A Yes, it would make it much easier.

Q Let me see if I can get one.

(There was a discussion off the record.)

Q Mr. Blandino, you have an adding machine now in front of you that's plugged in. Do you not?

Can you tell us, from Exhibit 1 for Identification, what the gross win for the Casino was?

A Well I'm going to try to figure this out, Mr. Rosen, but there's some of them that are not legible here but I'll

do the best I can here.

J 209

Q Mr. Blandino, while you're adding I suggest that you may want to look, if that's helpful, there are apparently adding machine tapes there, I don't know if that is helpful, in that Exhibit.

A Maybe this will save us a lot of time. Let me just take the tape and go back to the sheet and compare them.

Q Anything that will save you some time and all of us some time.

A I should have looked at these sheets. Everything is recapped on this sheet.

Q Well Mr. Blandino, any way that assists you in telling us. I know these records look kind of complicated, certainly to me, but anything that assists you in arriving at a final tabulation from that Exhibit you can look at--

A Okay. Well the first sheet which is the final sheet on the October junket came in on the 11th and left on the 14th of 1970.

There's a loss of eighty-nine thousand two hundred and sixty-five which is the bottom line on the tape.

Q Have you verified that?

A Yes, this is correct.

Do you want me to go to the next one?

Q Yes. I understand there are other junkets.

A Okay. On the second junket of October the 15th,

J 210

leaving on October the 18th of 1970 the bottom figure is nineteen thousand three hundred and seventy-five and that is also correct.

Q You verified that now?

A Yes, Sir.

Q When you say "the bottom figure" you mean a loss to the gamblers and a win to the Casino.

Am I right?

A Yes.

Q Now is there another one in that pack of records?

A Yes, there is.

Q If there's no compilation sheet for that--

A There isn't.

Q --I'd ask you to go through it and verify it for me if it takes a few minutes.

A This last sheet is also correct and the total of the bottom figure is twenty-one thousand three hundred and sixty-eight.

Q Mr. Blandino, so that I understand it, on the three trips that you just testified reflected by Defendant's Exhibit 1 for Identification, the losses that you just mentioned were gross win for the Casino?

A Right.

Q Would you please, on the adding machine that

you have in front of you, add up the total of the three losses or wins for the Casino?

J 211

A Okay.

Q I can give you the figures if you want.

A I have them here.

A hundred and thirty thousand o eight.

Q 008.

A 008.

Q So that I understand it, a total of a hundred and thirty thousand and eight dollars was the Casino's gross win for those three junkets?

A That's correct.

Q Now tell us, Mr. Blandino, how junketeers were compensated?

A They were compensated in the way of getting a ten percent commission; they were getting fifty dollars, per man.

Q On what was the ten percent based on? Was there any deduction from the gross win, in this case, for example, the hundred and thirty thousand eight?

Would the ten percent be based on that or was something else--

A No, it would be based on the hundred and thirty thousand.

Q Well would there be an expense for airplane fare?

J 212

A Sure.

Q And so that I understand what we're talking about, would the junketeers' commission be based on the hundred and thirty thousand that we're talking about or on the hundred and thirty thousand less the airplane fare?

A Less the air fare.

Q So--

A Less the air fare.

Q So that if there was an expense for air fare for the players that expense for air fare would come off the hundred and thirty?

A Yes, that's correct.

Q Then the ten percent would be calculated based on that figure?

A On the net figure.

Q The gross win less air fare?

A Yes.

Q Was that or was that not standard--

A That was standard--

Q --standard procedure?

A That was standard procedure, yes.

Q Do me a personal favor, let me completely finish my question and then you can answer it.

A Okay.

Q I want to get this all on the record.

Now can you tell us from the records that you have before you how many players were encompassed in these three junkets?

A I have to count them.

Q Okay. Is there anything that you can look at that can expedite it?

A Yes, I can look at the master sheet.

MR. ROSEN: Would you make a note that Mr. Goberman has just left the room for whatever purposes.

A I get a total of sixty-six players.

Q Well Mr. Blandino, without having to make you go through it again, my total came out to sixty-seven but give or take one or two you come up with a total of sixty-six?

A That's right.

Q Now what--

MR. ROSEN: You can note that Mr. Goberman returned.

Q Do you know, Mr. Blandino, how much per man was charged for air fare at that time?

A Two hundred dollars.

Q Subject to later verification let's work, if you would, on the basis that I totaled sixty-seven men and your total was sixty-six but subject to further verification would you accept sixty-seven just as an assumption?

J 214

A Yes, I would. In case you missed one or maybe I added one too many, let's just freeze the figure of sixty-seven men comprising those three junkets.

Am I correct?

A Yes.

Q So would it be fair and honest to say that the air fare expense for these three junkets for those sixty-seven men would be sixty-seven men at two hundred dollars a man?

A Right.

Q And if you'll accept my figure at sixty-seven times two hundred it would result in an expense of thirteen thousand four hundred dollars.

If you want to just multiply it or add it up, feel free to do so. Two hundred times sixty-seven.

A Thirteen four.

Q So would it be fair and honest to say that from the gross figure of a hundred and thirty thousand eight dollars we would have to deduct the air fare of thirteen thousand four hundred --

A That's--

Q --to get a net against which we will impose the ten percent commission?

A That is correct.

Q I hate to put you through all this trouble

but this is the only way I can do it.

Would you kindly deduct thirteen thousand four hundred from a hundred and thirty thousand and eight dollars.

A I get the wrong figure.

Q A hundred thirty thousand eight dollars minus thirteen thousand four hundred.

A I'll do it by hand.

Q In other words, the--

A I get a hundred and twenty-eight. It can't be. I get one twenty-six six 0 eight. It can't be.

Q A hundred and thirty thousand--

A 008.

Q 008 minus thirteen thousand four hundred.

MR. GOBERMAN: You're taking off thirteen hundred.

THE WITNESS: No, I'm taking off thirteen thousand.

Q With all due respect I think we should all--

A One sixteen six 0 eight.

Q Based on your calculations, after all this time--

A Yes.

Q --would it be fair and honest to say that the net figure against which we will apply commissions is a

hundred and sixteen thousand six hundred and eight dollars?

A That is correct.

Q Would you then take ten percent of that net figure? Is that the way you would figure the commissions?

A That's right.

Q and come up with a figure for us on the commissions for the junketeers?

A That would be sixteen thousand sixty, no?

Q Ten percent of one hundred and sixteen thousand--

A Eleven thousand six hundred and sixty.

Am I right there?

Q Eleven thousand six hundred and sixty dollars?

A Yes.

Q Would you give us a figure what it would run at fifty dollars a head for the sixty-seven players?

A Three thousand three hundred and fifty.

Q Now, Mr. Blandino, one final figure with this line of questioning.

Would you add up for us, for the record, the three expenses which we have been talking about, that is the ten percent, the fifty a head and the air fare on these three junkets?

A That's twenty-eight thousand four hundred and fifty. That would be thirteen thousand four hundred; the eleven thousand six hundred and sixty and three thousand three

hundred and fifty.

Q Mr. Blandino, I suggest to you most respectfully that the total of those three figures comes out to twenty-eight thousand four hundred and ten.

A The air fare you have thirteen thousand four hundred.

Q That's right.

A The ten percent is eleven thousand six hundred and sixty.

Q That's correct.

A The fifty dollars per man is three thousand three hundred and fifty.

Q You add that up and I suggest it's twenty-eight thousand four hundred and ten.

A You're right.

Q Thank you, Mr. Blandino.

Now, Mr. Blandino, can you tell us from the three junkets you have just been talking about from Defendant's Exhibit 1 for Identification, which you still have before you, what the gross pick-up would be for those three junkets, pick-ups in New York by, I take it, Mr. Parness?

By the way, would Mr. Parness have to pick this money up in New York?

A Yes.

Q Was he responsible to pick this up in New York?

A Yes, he was.

Q Before you even get into the figure, assuming that the gross pick up in New York was less than the gross win for the Casino, why would there be a difference in the money?

In other words, could there have been money paid by the players down at the casino?

A Yes.

Q Whatever is left over, do I understand it that it is picked up in New York by Mr. Parness?

A That's correct.

Q Can you determine from the Exhibit what Mr. Parness was to pick up in New York and if you would tell us where you're getting that information from.

Mr. Blandino,I noticed that you've just put a figure down on your pad.

Is that the conclusion of one particular junket?

A It is.

Q Would you tell us what that figure is and for which junket?

A For the junket coming in on the 11th of October of 1970 leaving on the 14th of October of 1970 a total pick up of seventy-seven thousand six hundred and I'm getting this information from the master sheet.

Q Is there any designation on that sheet which

junket that is, where it came from?

A Yes, Detroit.

Q Go to the next junket, please, encompassed by that same Exhibit.

I noticed that you've written another figure down on the yellow pad. It's upside down, I can't see it but would you tell us what figure it is and--

A This is a junket that came in on the 15th of October that left on the 18th of October, 1970. The total pick up figure is eighteen thousand dollars and it's the junket-- it doesn't say where it's from.

It says Olympic-Orlick so that must be out of New York.

If I can go a step further, there's a name here, Selick and from what I know he's not out of New York, he's out of Detroit.

Q Go ahead onto the third junket encompassed by those sheets, please.

A On the third junket I don't have a master sheet-

Q Well is there a way you can ascertain it from the actual work sheets?

A I'll do the very best I can.

Q Please.

Which junket is it now and whose is it?

A It says Parness Feltman and from my experience with

J 220

the Casino that should be out of Philadelphia.

Q What's the date of the junket?

A It says 10/18/70.

On the last sheet I get a figure of nine thousand four hundred and twenty-five.

Q Now without bothering you too much could you just please add up the total pick ups for the three junkets that you just put down on your paper?

A A hundred and five thousand 0 twenty-five.

Q Mr. Blandino, so that I fully understand and I've had some trouble understanding in the past so let me make sure while I have you here I understand it.

Out of the total gross win for the Casino on these three junkets of a hundred and thirty thousand eight dollars a hundred and five thousand twenty-five dollars of it had to be picked up by Mr. Parness either in New York or someplace else?

A That is correct, yes.

Q Using these figures that we have been working with in this Exhibit, would it be fair and honest to say--well you tell me.

What would Mr. Parness be responsible to transmit back to the Casino?

In other words, I'm asking you would Mr. Parness transmit the full hundred and five thousand twenty-five

J 221

dollars to the Casino or was it the practice and the actual fact that the expenses that we calculated before, namely the twenty-eight thousand four hundred ten dollars, would be deducted from that figure and the balance remitted?

A That is correct.

Q So that I know what is correct, tell me what happened. This is difficult for me and I appreciate your indulgence because I don't think I ever wagered more than a nickel on these things and I'm not that familiar with the way they operate.

A You would have to deduct the expense of twenty-eight thousand four hundred and ten dollars from the total amount of the pick up which is a hundred and five thousand twenty-five dollars and he would forward the balance to me in St. Maarten.

Q Now assuming that the deductions for the ten percent, the sixty-seven men--

A May I interrupt you for a minute?

Q Yes, sure.

A That is considering that he would collect all the money.

Q Assuming that he collected it.

In other words, he would owe a balance, if my figures are right, of seventy-six thousand six hundred and fourteen dollars, if you deduct the twenty-eight thousand

four hundred and ten from the hundred and five thousand twenty-five that leaves a balance of seventy-six thousand six hundred and fourteen dollars.

Do you accept that figure?

A I accept that figure. That is correct.

Q That's what Mr. Parness would owe to the Casino, provided he collected everything he's supposed to collect?

A That is correct.

Q So there's no question that the bottom line out of a hundred and thirty thousand eight dollar loss at the Casino, what Mr. Parness would owe the Casino, would be seventy-six thousand six hundred and fourteen dollars, assuming he collected everything he was supposed to?

A That is correct.

Q Now to save an awful lot of time, would that be the way it operated for all the junkets that Mr. Parness was responsible for?

A That is correct.

Q Is there anything in those sheets that you have before you, Defendant's Exhibit 1 for Identification, that would indicate whether or not the Air fare, for example, was paid before Mr. Parness made these collections in New York?

A No.

Q So would it be fair and honest to say that out of the collections Mr. Parness made he deducted and paid the air fare from? J 223

A That is correct.

Q Well how do you know that?

I'd like to try to ascertain that.

Was it the practice, can you tell it from the sheets or what way?

A There's no way I can tell it from the sheets because these sheets, all they give me is the name of the individual, their credit line and the master sheet is after I had checked them out and it has a win and a loss column and a pick up column but it was a common practice of deducting the money for the expenses in the New York office out of the collection money but there is nothing that can tell me that in these sheets.

Q Now would it be fair and honest to say that if the money was paid before Mr. Parness made his collections that would some way be reflected on those sheets or did it ever happen, to your knowledge?

A No.

Q It never happened?

A No.

Q By the way, did you ever see that Exhibit before today, before today?

A To the best of my recollection, I remember, and I can't say the exact time whether it was a year ago, a year and a half ago, I was subpoenaed in St. Maarten's by Mr. Campbell. Then I came to New York City and I was downtown with Mr. Campbell, I think his name is Mr. Frazer, a fellow with a mustache and some other individual there.

Q Mr. Friedman?

A Friedman, that's his name and some other fellow from the F.B.I. and they showed me some of these sheets and some checks while I was there.

I spent with them maybe an hour and a half and then I left.

Q Do you recall what you said about these sheets? Did you explain what they were?

A Yes, just like I explained to you today.

Q Do you recall whether any of the individuals that were with you took any notes on paper or dictated any notes?

A No, there was no recorder there, they were making notes and they had sheets prepared to ask me these questions but there was nobody--there was no recorder there. They did make notes and like I said, they had sheets with questions and those were the questions that they asked me.

Q But can you tell us, and think about it for a minute, you do recall or you don't recall, then, somebody

making notes based on what you said to them at any time, any governmental agent?

A Well Mr. Campbell was the one that spent most of the time asking me questions and he was the one that had the questions in front of him and they did--he did make notes.

Q You don't know what those notes say?

A No.

Q Did they ask you whether you knew Mr. Parness was doing anything wrong down at the Casino?

A No. They asked me about the collections, how it was handled. They asked me about Mr. Ferrara--a few other names.

I mean, it's been such a long time and they spent a lot of time asking me about some checks that they showed me.

Q But do you recall whether they asked you whether you had any knowledge that Mr. Parness was doing anything illegal or anything wrong down at the Casino?

Did they ask you that question?

A I don't recall.

Q Okay.

A I don't recall.

Q But is it your present recollection that you explained to these government agents basically what you've told me today about what these sheets mean?

A That is correct. I explained to them the procedure.

J 226

Q Did they ask you what they meant?

A What what meant? I didn't--

Q These sheets which have all these lines and numbers, did they say, Mr. Blandino, what does this mean?

A Yes. Yes, I explained it to them.

Q Did you explain to them that, if you recall, that not all the money that was lost at the Casino was to be turned over by Mr. Parness?

Do you recall that?

If you do say so, if you don't--

A I'm sure that I explained it to them the same way as I'm explaining it to you now.

I mean, it's been such a long time. I mean, I would explain it the same way I explained it to you because that was the normal procedure.

Q Did you sign anything, any statements for the Government?

A No, I didn't.

Q Mr. Blandino, is it your testimony that the air fare was never paid up front or deducted up front or is it that you don't know of any such incident?

A I don't know of any.

Q Mr. Blandino, I show you what is marked Defendant's Exhibit 2 for Identification as of July 31, 1974, which is a series of four pages, the first page of which

bears a notation "Exhibit 168, United States District Court, Southern District of New York" and ask you if you've ever seen this before or can tell us what it is?

A This is basically a check-out sheet of the junket when they left.

Q What junket and when, please?

A It's a New York group, that's what it states here on the sheet and the date on it is 10/25, 1970. It shows--

Q Well do you recognize any of the writing on there, before we get to what it shows?

I'll get back to that.

Do you recognize any writing on it?

A The first and second sheet looks like Bernadette's handwriting, although it states on the second sheet it has a name here of Harvey and he was an--he was the Casino Manager at one time and on the third sheet it has Mr. Goberman's handwriting.

Q Would you put your initials on any page that you believe you recognize Mr. Goberman's handwriting.

A (The witness complies.)

Q Thank you.

Now do you recall this junket, were you there at that time and do you recall it?

A I don't recall the junket but I was there.

Q Were you the Casino Manager at that time,

Controller of the Casino?

A I must have--this was about the time that I moved over from the hotel to the Casino. It was some time in October.

Q How was this Mr. Goberman's junket?

A Possibly, yes.

Q Is there any way of telling whose junket it was or whether it was Mr. Parness' junket?

A Well if it was Mr. Parness' junket we had diffemnt sheets -- not sheets, different forms when Mr. Parness came into the Casino.

This must have been Mr. Goberman's junket and it's Mr. Landsman and Mr. Glasser that brought down the junket.

Q Do those sheets that you have before you, Exhibit 2, provide for a junketeer commission in excess of ten percent?

A It shows here fifteen percent.

Q What does that mean to all of us laymen? Does that mean that the junketeers were to get fifteen percent?

A Fifteen percent instead of the ten percent that we were paying.

Q Is there anything in those sheets which indicates that Mr. Goberman got any money?

A It says here Mr. Goberman three thousand dollars.

Q Do you know who wrote that, to the best of your recollection?

A To the best of my recollection this is Bernadette's writing but, like I stated before, at the bottom of the sheet it has the name of Harvey.

Q Who was Harvey?

A Harvey was the Casino Manager.

Q Does he have a last name?

A I don't remember his name, his last name.

Q Would he be an employee of Mr. Goberman?

A Yes.

Q Now is there anything on that Exhibit which indicates that Mr. Parness was responsible for or indeed picked up any money for that junket?

A No.

Q Can you tell who picked up the money or who got the money?

A Mr. Goberman.

Q And what leads you to that conclusion?

A Because he was handling the junket.

Q What leads you to that conclusion?

A He brought the junket down.

Q Do you recall this of your own knowledge or are you getting that from the papers?

J 2301

A I'm getting it from the papers.

Q Now would you say Mr. Goberman made his own collections or can you tell who made the collections on--

A He made his own collections of this.

Q Is that based on your personal knowledge or from what youre just getting from reading these documents?

A From what I'm getting in reading these documents.

Q Again, I may have asked you this before, does Mr. Parness reveal in these documents as having responsibility of picking up any money?

A None, whatsoever.

Q Can you tell how much was due according to these documents, to the Casino?

A It says here on the last sheet that the total figure was twenty-five thousand, then it says half plane off of seventy-four forty-seven which left sixteen thousand five hundred and fifty-three dollars and it says gave to them five thousand two hundred which would mean that that was the commission that Mr. Goberman paid Landsman and Glasser and it left a balance of eleven thousand three hundred and fifty-three.

Q And the sheet that you now are reading from you have initialled as being a sheet you recognize Mr. Goberman's handwriting?

A That is correct.

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Q Is the entire sheet Mr. Goberman's handwriting, to your knowledge?

A Yes.

Q Mr. Blandino, I'm going to apologize to you and Mr. Goberman and everybody if this is a little painstaking. Perhaps it's my unfamiliarity with some of these things that drag it out but I have to get it out.

I show you what has been marked Defendant's Exhibit 3 for Identification as of July 31, 1974, which is a compilation of five pages, the first page has a legend of "Government Exhibit or Exhibit 169, United States District Court, Southern District of New York."

I ask you whether you recognize these papers and tell us what they are, if you know?

A This is a junket that came out of New York and it arrived in St. Maarten on the--it left St. Maarten on the 29th of November.

Q What year?

A Of 1970 and the first three sheets are the check-out sheets where it shows you what they won or lost and the pick-ups.

The last sheet it gives you a recap of what took place in the Casino from the 25th to the 28th.

Q Do you recognize any of the writings in that Exhibit?

J 232

A All the writing in this Exhibit is mine.

Q Do you recognize anybody else who has written anything on there?

A It's all my handwriting.

Q Whose junket was it or if maybe it makes it easier for you can you tell if it was Mr. Goberman's or Mr. Parness' and you can look at the recap sheet if that will help you or anything you want to look at?

A This would be Mr. Goberman's junket and it was brought down, I see the name of Landsman here so he must have brought it down.

Q Is there a commission provided for to the junketeers in excess of ten percent that you can ascertain from the documents?

A Fifteen percent commission.

Also they received a fifteen percent commission on the slot machines.

Q That was not the normal situation with Mr. Parness, was it?

A No. No, we never paid any commissions on the income of the slot machines.

Q Mr. Goberman did, apparently?

A Yes.

Q Can you tell me whether there's anything in that document which indicates that Mr. Parness was to make

J 233

any pick-ups or that he had anything to do with the junket?

A No.

Q How much was due to the Casino from that junket?

A It says here at the bottom of the sheet balance due Casino, four thousand two hundred and eighty.

Q Were airplane fare and commissions and fifty dollars a head taken off the gross to get to that figure?

A Yes, Sir.

Q I'll ask you again so there's no question about it, did Mr. Parness have any responsibility to make any pick-ups here from the records before you?

A No, Sir.

Q Who put the stamp on the last page, the stamp that's marked paid, to your knowledge?

A I don't know. I didn't do it.

Q Someone else put the stamp "Paid" on that?

A Yes.

Q Well let me just ask you as a point of curiosity, how would you know that you didn't do it?

A Because I never used a stamp like this.

Q Okay.

A I mean, I don't even know what it means.

Q It says "Paid".

A I know. I know, but why it would be there--I guess

J 234

he got paid and marked it paid.

Q By the way, Mr. Blandino, this Exhibit 3 and the previous one, too, which you said are Mr. Goberman's junkets, were you shown them by the Government, to your knowledge?

A They showed me a few junkets and it could have very well been one of these two or three junkets, sheets that you have shown me today.

Q You can't say for certain that you were shown or were not shown these?

A No.

Q Okay.

A No, I can't.

Q Mr. Blandino, I show you what has been marked Defendant's Exhibit 4 for Identification.

MR. GOBERMAN: Excuse me.

How much longer do you have with him.

MR. ROSEN: I think these will go pretty quickly, wouldn't you say, Mr. Parness?

This should take another fifteen minutes or so.

(There was a discussion off the record.)

Q I think I said I show you Defendants' Exhibit 4 as of July 31, 1974, which is a group of similar type documents which on the front page bears the legend "Exhibit

J 235

170, United States District Court, Southern District of New York" and I ask you whether you've ever seen this set of documents before and tell us generally now, as in the past, what it is, what it means to you, and then we'll ask some specific questions about it.

A These are also check-out sheets of the junkets where it shows the win and loss and pick-ups.

Q In the quickest way possible, without compromising accuracy, could you tell us first when the junket was?

A Ed Feldman Group came in on December 9th, 1970, checked out December the 13th, 1970.

Ed Levrey and Milton Parness came in on December 9th of 1970 and checked out on December the 13th of 1970.

John Orlick came in on December the 9th of 1970, left on December the 13th of 1970.

The final sheet is recapped of what took place in the Casino from the 10th through the 13th.

Q In other words, Mr. Blandino, the financial sheet is a recap of those three trips, those three junkets.

Am I right?

A No.

Q Is there one recap done for the whole thing?

A No, there's not. Let me check again here.

J 236

Yes, this is a recap of the whole thing.

Q Now whose handwriting appears on the documents, that you know?

A That's mine on the recap sheet but at the bottom it says "Milt" and it's circled and then in the square here it says "In 12/9/70, out 12/13/70" and that part of it is in Mr. Goberman's handwriting.

Q Now these three separate junkets, right, are encompassed by that Exhibit?

A Yes.

Q Are they all under the general heading of Olympic or is it designated like that anywhere?

A It doesn't say Olympic on any of the sheets. It just gives the name of a junketeer.

Q Whose junket was that, really all these three junkets, were they Milton's junkets, Milton Parness' junkets?

A Yes, Sir.

Q Now I'm going to have to ask you to do a little adding.

Is there any quick expeditious way of finding out totals like we did on the first junket, the gross win and what the expenses and perhaps if this is going to be too time consuming for the balance maybe Mr. Blandino can do this over a break and then just give it to us in one shot.

J 237

MR. ROSEN: How do you feel about this, Mr. Goberman?

MR. GOBERMAN: It doesn't make a difference to me. Whatever you want to do.

MR. ROSEN: If we take a break and maybe you get yourself a cup of coffee and in your absence I will show the remaining Exhibits to Mr. Blandino--

MR. GOBERMAN: Let him have them--

MR. ROSEN: And what I want to ascertain from him, Mr. Goberman, is the gross, the expenses, the net, the pick-ups and what was the net to you down at the Casino and I would do this in your absence during a break.

MR. GOBERMAN: It's perfectly all right.

MR. ROSEN: I mean, so this way we don't take up the time and the Reporter can take his break now, too.

(Luncheon recess was taken.)

MR. ROSEN: We're back on the record after a recess.

BY MR. ROSEN:

Q Mr. Blandino, I show you Exhibit 4 for Identification as of July 31, 1974, which is a compilation of similar type documents that I've shown you before, the front page bearing a notation, "Exhibit 170, United States

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District Court, Southern District of New York" and ask you if you can identify what these papers are, give us some dates, tell us if you recognize any handwriting and the same type of general identification as we've previously done?

A These are also the check-out sheets of the junkets which show the win and loss and the pick-ups.

Q Well what junket?

A This is Ed Feldman came in December the 9th of 1970, checked out December the 13th of 1970. This is Ed Levey, Milton Parness came in December the 9th, 1970, checked out on December the 13th, 1970 and this is Orlick came in on December the 9th, 1970, checked out December the 13th of 1970.

Q Do you recognize any handwriting on that Exhibit?

A The first page here, which is dated December the 10th of 1970 is my handwriting and is initialled by me, the last page--

Q Did we go over this already?

A Yes, we did it. We went over this already. Yes, we did, because the handwriting of Mr. Goberman is on the bottom. We did this before.

(There was a discussion off the record.)

Q During the recess did you go over this Exhibit to determine the gross win, the expenses, the gross pick-ups

J 239

and the net at the Casino?

A Yes, I did.

Q Tell us from your examination of these documents what the gross win was?

A The gross win was thirty-one thousand eight hundred and thirty-nine dollars. That's for the three junkets.

Q Is there a nine thousand dollar figure attributable to air fare there?

A Yes, that is correct.

Q Do you have any knowledge of what that figure means and could you tell us what it's all about, please?

A That figure of nine thousand dollars is the air fare.

Q Was that--

A --which was taken off of the front money. There were twenty men involved and they each had in front, according to the sheets, a thousand dollars so that makes a total of twenty thousand and the air fare came off that twenty thousand dollar figure.

Q Who got the air fare?

A Mr. Goberman.

Q How do you know that?

A What?

Q How do you know that?

Do you have anything that indicates that to you?

A Well in this sheet here as to what is stated here on the sheet is that there was twenty thousand in front. There was the nine thousand for the air and there were two extra plane fares which came to three forty four and it left a balance of ten thousand six hundred and fifty-six dollars and in my own handwriting I have here that I received from Mr. Allan Goberman eight thousand six hundred and fifty-six dollars.

Q Now going into the entire junket, the three junkets, the three trips, you then would have to deduct the nine thousand from the thirty-one thousand eight thirty-nine that you just told us.

Am I correct?

A That's correct.

Q What figure did you come up with?

A Twenty-two thousand eight hundred and thirty-nine dollars.

Q Now that's the net figure that the commissions would be applied against.

Am I right?

A That's correct.

Q How many men were totaled in those three trips?

A Thirty-six men.

Q That would be at fifty dollars a head.

That would be how much?

J 241

A Eighteen hundred dollars.

Q And ten percent of the twenty-two thousand eight hundred thirty-nine dollars would be how much?

A Two thousand two hundred and eighty-three ninety.

Q Will you accept my figure that the commissions and the head tax comes out to four thousand eighty-three dollars and ninety cents?

A That is correct.

Q Could you tell us from the Exhibit what the gross pick-up was and who was responsible to pick it up?

A The gross pick-up was eighty-five hundred.

Q Who was responsible--

A And the responsibility was Mr. Parness.

Q Out of that gross pick-up of eighty-five hundred, would the junketeer's expenses have to be deducted from that?

A That's right.

Q Now how--

A The four thousand eighty-three ninety would have to come off the eighty-five hundred.

Q Not the nine thousand at this point.

Am I right?

A No.

Q Because Mr. Goberman already had that?

A Yes.

J 242

Q So how much would Mr. Parness owe to the Casino out of these three junkets?

A That would be four thousand four hundred and sixteen dollars and ten cents.

Q Mr. Blandino, I show you what has been marked Defendant's Exhibit 5 for Identification as of July 31, 1974, a similar compilation of documents the front page of which bears a notation "Exhibit 171, United States District Court, Southern District of New York" and let's go through the same type of questioning.

Do you recognize the documents, do you recognize any handwriting on there, what junket, etc.?

A Yes, these are also the check-out sheets which shows the win and loss and the pick-ups. This is Milton Parness Group and it doesn't show the arrival date but it shows the departure of January the 3rd, 1971. This other sheet here is also a Milton Parness Group. Also it doesn't show the arrival, only the departure of January the 3rd, 1971.

Q How about some handwriting?

A The handwriting in--on the sheets here, on the two sheets of the check-out sheets is mine and on the front page here where it says "Milt" and a circle that's Mr. Goberman's.

On the first page of the Milton Parness Group check-out sheet it says "Milt", that's also Mr. Goberman's.

Q Is there anything in your mind that typifies

J 243

Mr. Goberman's handwriting or style of handwriting?

A Well I became familiar with his handwriting. He always uses a felt pen.

Q Now let's get into the figures, Mr. Blandino. Can you tell us what the gross win was from those junkets, represented by that Exhibit?

A That gross win was seventy-nine thousand two hundred and seventy-five dollars.

Q Have you verified all these figures?

A Yes.

Q From the papers in front of you?

A Oh, yes.

Q How many men were combined on there, those junkets?

A There were five men.

Q That would be how much for air fare?

A A thousand dollars.

Q So you would deduct a thousand dollars from the seventy-nine thousand two hundred and seventy-five?

A Yes.

Q Is your figure seventy-eight thousand two hundred and seventy-five?

A That is correct.

Q Now what would ten percent of that figure be?

A Seven thousand eight hundred and twenty-seven fifty.

Q And how much head tax, so to speak, for each?

A That would be five men, fifty dollars would come to two hundred and fifty dollars.

Q What would be your total for air commission and head tax?

A Nine thousand seventy-seven dollars and fifty cents.

Q What was the gross pick-up to be picked up and by whom?

A The gross pick-up was seventy-five thousand two hundred and I took the expenses off --

Q Who was to pick it up?

A Oh, Mr. Parness, I'm sorry.

Q Would you have to then deduct the expenses from the gross pick-up to determine how much Mr. Parness owed the Casino?

A That's right.

Q What would be that figure?

A Nine thousand seventy-seven dollars and fifty cents.

Q That's the expenses?

A That's right.

Q What would be the net to the Casino?

A Sixty-six thousand one hundred and twenty-two dollars and fifty cents.

Q Mr. Blandino, I show you what has been marked Defendant's Exhibit 6 for Identification as of July 31, 1974,

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a similar compilation of papers, the front page of which bears the notation "Exhibit 172, United States District Court, Southern District of New York."

Would you look at that, please, and tell us if you recognize it, what it is, whose handwriting appears thereon, if anybody's, and generally the same type of questions as to the other Exhibits?

A Well this is also the check-out sheet and the Milton Parness group from Detroit. They arrived at the hotel December the 16th of 1970. They departed the hotel December the 20th of 1970.

The third sheet here give you what took place in the Casino from the 17th of December through the 20th.

Q Whose handwriting is that?

A That's my handwriting.

I'm sorry, it says here through the 21st. This is my handwriting.

Q Let's go through the figures.

Can you determine from those records and have you verified what the gross win was?

A Yes, there's a tape here on the second page, it's twenty-one thousand three hundred and twenty-nine dollars.

Q How many men were on the junket?

A Forty-four men.

Q What would the air fare be at two hundred

J 246

dollars a man?

A Eight thousand eight hundred.

Q Would you then have to deduct the air fare from the gross win to determine the base as to which you would apply the commission?

A That is correct.

Q What would that bottom line be?

A Twelve thousand five hundred and twenty-nine.

Q That's for air fare--

A Yes.

Q I'm sorry, that's the net after the air fare?

A Yes, right.

Q What would ten percent of that be?

A One thousand two hundred fifty-two dollars and ninety cents.

Q What would the head tax be?

A That would be forty-four men, fifty dollars, would come to two thousand two hundred.

Q Would you tell us what the total of the three expenses, ten percent, fifty a head and air fare was?

A Twelve thousand two hundred and fifty-two dollars and ninety cents.

Q Could you tell us what the gross pick-ups were?

A Two thousand one hundred.

J 247

Q Twenty-one hundred?

A Yes, two thousand one hundred.

Q So in this particular instance the expenses were in excess of the gross pick-ups by what figures?

A By ten thousand one hundred and fifty-two dollars and ninety cents.

Q Would you say, based on your experience and knowledge, that this is what the Casino owed Olympic or Mr. Parness?

A That's correct.

Q Was Mr. Parness responsible to pick up the twenty-one hundred dollars?

A Yes.

Q Mr. Blandino, I show you what has been marked Defendant's Exhibit 7 for Identification as of July 31, 1974, a similar compilation of documents, the first page bearing the notation "Exhibit 173, United States District Court, Southern District of New York."

Would you kindly go through the whole picture for us?

A This is also the same--these are the check-out sheets which show you the win and loss and the markers.

Q What junkets, whose junket?

A It was Carlo Groum and they arrived at the hotel on December 30th, 1970, departed January the 3rd of 1971.

J 248

Q Is this Mr. Parness' junket?

A Yes, that's correct.

Q How about the handwriting on there?

A The handwriting on this is Mr. Parness' handwriting.

Q Any of yours?

A Part of it is mine, I would say, where I filled in the amount of what they lost.

Q Any of it Mr. Goberman's?

A On the front page it says Carlo, that's Mr. Goberman's.

Q Would you initial that, please.

A (The witness complies.)

Q Now tell us what the gross win is from the records and have you verified it?

A I verified it and the gross win is five thousand six hundred and five dollars.

Q How many men on the junket?

A Eleven men.

Q What would the air fare be at two hundred dollars a head?

A Twenty-two hundred dollars.

Q What would be the bottom line after you deduct the air fare from the gross win?

A Three thousand four hundred and five dollars.

Q How much would ten percent of that figure be?

A Three hundred and forty dollars and fifty cents.

Q How much would the fifty dollars a head amount to?

A Five hundred and fifty dollars.

Q Would you tell us what the total between the air fare, ten percent and fifty dollars a head would come out to?

A Three thousand ninety dollars and fifty cents.

Q Could you tell us from the records what Mr. Parness was obligated or responsible to pick up?

A There was no pick up on this particular junket.

Q So would you say that the expenses outweighed the pick-ups by three thousand ninety dollars and fifty cents?

A That's correct.

Q That's what the Casino owed to Olympic?

A That is correct.

Q I show you what has been marked Defendant's Exhibit 8 for Identification as of July 31, 1974, a similar compilation, the front page bearing the notation "Exhibit 174, U. S. District Court, Southern District of New York" and let's go through it the same way, please.

A This is also the check-out sheets which show you the win-loss and markers. It was the cross group.

Q Whose junket was it, Milton Parness'?

A Yes. They arrived at the hotel the 30th of December of 1970 and departed the hotel January the 3rd of 1971.

Q January the 3rd of 1971.

Is there any handwriting you recognize on there?

A Yes. On the front page, Cross, and it's underlined.

Q Whose handwriting?

A That's Mr. Goberman's and there's a "K" here circled.

Q Do you want to initial that, please.

A (The witness complies.)

Q Is there anybody else's handwriting on there, that you recognize?

A On the sheets my handwriting where I filled in the amount, what they lost or won.

Q How about anyone else's handwriting?

A No.

Q Could you tell us what the gross win was?

A Five hundred and ninety-five dollars.

Q How many men on the junket?

A Six men.

Q How much would that be for the air fare?

A Twelve hundred dollars.

Q So right there the air fare cost more than what the Casino won?

A That is correct.

Q Would I be fair and honest to say that that's the breaks of the game when you're dealing with junkets?

J 251

A That's right.

Q Was there any commissions?

A No.

Q Why not?

A Yes. Well there was no ten percent, there was a fifty dollar, per man, which came to three hundred dollars.

Q So between the air fare and the three hundred dollars there was fifteen hundred dollars in expenses?

A That's right.

Q As against five hundred and ninety-five dollars in winnings?

A Right.

Q Was there any pick-ups to be made by Mr. Parness?

A No.

Q So would there then have to be a credit to Olympic for the fifteen hundred dollars in expenses?

A That's right, and also I just noticed here that there's a duplicate here, these two sheets are exactly the same.

Q Would you be kind enough to just put the letter A on each of them so that we know which ones you're saying are the same.

A (The witness complies.)

Q I show you what has been marked -- I show you what has not been marked anything. Apparently I didn't

J 252

mark this on our last deposition.

MR. ROSEN: Let's mark this as Defendant's Exhibit 8-A as of this date so we don't break the sequence.

(The Reporter marked D-8A for Identification, a Document entitled Exhibit 175.)

Q Mr. Blandino, I show you what is now marked Defendant's 8A for Identification as of today which is a two-page document, the front page of which bears the notation "Exhibit 175, U. S. District Court, Southern District of New York" and ask you the same background questions as to this Exhibit as to the others?

A This is also a check-out sheet which shows the win and loss and the markers. It's dated January the 4th of 1971 and there's no departure date on it.

On top of the sheet the only thing I can see is Erman.

Q Do you know what that means?

A Well it would be Goberman--I mean, when they photo-copied this thing it wasn't right.

Q Well who is on that junket, if there was a junket?

A It was just the one person.

Q What's his name?

A Mr. Wolfer.

J 253

Q Is there anybody's handwriting on there that you recognize?

A Yes. On the check-out sheet it's my handwriting and on the front it says "Wolfer" and that's Mr. Goberman's handwriting.

Q Do you want to initial that, please?

A (The witness complies.)

Q Did Mr. Parness have anything to do with that junket or that trip or that player, whatever you want to call it?

A No. Mr. Goberman wrote him down.

Q How much was one by the Casino and lost by Mr. Wolfer?

A Twenty thousand one hundred.

Q Now what would be the air fare on there?

A Two hundred dollars.

Q And how much a head?

A Fifty dollars.

Q Would there be a ten percent commission there, if you took ten percent of that?

A If I took ten percent it would be two thousand ten dollars.

Q Did Mr. Parness, was he responsible to pick up that money, does that reveal that on the sheet?

A No.

J 254

Q Do you know whether that money was ever paid?

A Let me put it to you this way. When I left the Casino the men had never paid.

Q All right.

A As far as I know.

Q Well if you take these expenses that we've just talked about, the two thousand ten dollars which equals the ten percent, fifty dollar head tax and two hundred dollars airplane fare that would come out to what, Sir?

A Two thousand two hundred and fifty dollars.

Q So if there was to be a pick-up what would be the net to the Casino there?

A Seventeen thousand eight hundred and fifty dollars.

Q That's assuming Mr. Parness was responsible and deducted a proper deduction?

A Yes.

Q Mr. Blandino, I show you what has been marked Defendant's Exhibit 9 for Identification as of July 31, 1974, a two-page document, the first page bears the Legend "Exhibit 176, United States District Court, Southern District of New York."

Tell me what that's all about, please.

A This is just a sheet from a yellow pad and it says skyball coming in on January the 13th of 1971, departing January the 18th of 1971.

Q Whose group is that, Mr. Parness', that you know, if you know?

J 255

A I really don't know.

Q Whose handwriting appears on the yellow sheet, to your knowledge?

A That's Mr. Goberman's handwriting.

Q Does his handwriting appear anywhere else on that Exhibit?

A Well there's only one sheet here and that's his handwriting and on the front here on the first sheet here it says "Skyball" that's all his handwriting.

Q Do you want to initial both, please, for me.

A (The witness complies.)

Q What was the gross win from Skyball?

A From this sheet here it's fifteen thousand two hundred and sixty-eight dollars.

Q How many people on the junket?

A Forty-two.

Q Now--

A It doesn't say the amount of people here. It just says air, sixty-nine hundred dollars.

Q Well if you divide that by two hundred what would you get? Also, there's a fifty dollar a man tax that would tell you how much --

A Forty-two.

J 256

Q Forty-two men on the junket?

A Yes.

Q Now the air would be sixty-nine hundred--

A Yes.

Q --if you subtracted that from the fifteen thousand two hundred and sixty-eight gross win what would be your figure?

A Eight thousand three hundred and sixty-eight dollars.

Q You would then apply ten percent as against that for the junketeer?

A That's right.

Q What was that figure?

A Eight hundred and thirty-six dollars and eighty cents.

Q How much would be forty-two men at fifty a head?

A Twenty-one hundred dollars.

Q How much was the air?

A Sixty-nine hundred dollars.

Q What's the total of the expenses, please.

A Nine thousand eight hundred thirty-six dollars and eighty cents.

Q Now at this time Mr. Parness was responsible for this junket? Am I right? At this time he was responsible for all junkets, wasn't he?

A Yes.

J 257

Q How much was the gross pick-up that he was responsible for?

A Eighteen thousand five hundred and ninety-three dollars.

Q You get that from the sheet?

A Yes, Sir.

Q If you deduct the expenses that we just talked about of nine thousand eight thirty-six eighty, what would be the net Mr. Parness owed to the Casino?

A Eight thousand seven hundred and fifty-six dollars and twenty cents.

Q And you obtained these figures from the sheet which you've initialled with your initials and that indicated that that was Mr. Goberman's handwriting?

A That's right.

Q The last one, Mr. Blandino.

I show you what has been marked Defendant's Exhibit 10 for Identification as of July 31, 1974, two pages the first page of which bears the notation or the Legend "Exhibit 177, United States District Court, Southern District of New York." Tell me about it, please.

A This shows the heading is Suburban and shows them arriving at the hotel on January the 13th of 1971, departing the hotel January the 18th of 1971.

It's like the previous one, like on a yellow

J 258 2

pad and that's also Mr. Goberman's handwriting.

Q Whose handwriting is on the front page? Would you initial both places, please.

A Yes. It says "Suburban" in a circle and it's got a couple of N's here that are also circled and those are Mr. Goberman's writing.

Q Do you want to put your initials where that is.

A On all three?

Q No, just on the page.

A (The witness complies.)

Q Was Mr. Parness responsible for this junket as well?

A Yes.

Q Tell me what the gross win was, please, from the sheet that you have in front of you?

A Thirty-three thousand six hundred and forty-four dollars.

Q How many people were on the trip?

A Twenty-five men.

Q How much would the air fare be at two hundred a man?

A It's four thousand four hundred and eighty-five dollars.

Q That four thousand four hundred and eighty-five dollars is then deducted from the gross win and we have what?

A Twenty-nine thousand one hundred and fifty-nine

dollars.

Q You take ten percent of that figure--

A You get two thousand nine hundred and fifteen dollars and ninety cents.

Q How much is that at fifty dollars a man?

A One thousand two hundred and fifty dollars.

Q With the air fare what are the total expenses?

A Eight thousand six hundred and fifty dollars and ninety cents.

Q How much was the gross pick-up Mr. Parness was responsible for?

A Eight thousand seven hundred and thirty dollars.

Q And deducting the expenses from the gross pick-up what was the net Mr. Parness owed to the Casino?

A Seventy-nine dollars and ten cents.

Q Did you obtain these figures from the sheet which is entirely comprised of Mr. Goberman's handwriting?

A Yes.

Q By the way, Mr. Blandino, can you tell us to the best of your recollection whether each of the exhibits which I have and I admit were painstakingly gone through, did you discuss these Exhibits with members of the Government when you were interrogated in New York?

A I discussed some of them.

Q You can't tell me which specific ones?

A I could never tell you which one. I mean, it's been such a long time.

Q In discussing them did you go through the type of analysis I've gone through or what did you tell them about these?

A Well not as detailed as you have gone through it but I just explained the procedures to them of the head money, the ten percent commission and the air and how we arrived at the net figure.

Q Now Mr. Blandino, I show you what has been previously marked Defendant's Exhibit 13 for Identification as of September 18, 1974, which is a check and let me just ask you some questions about it, okay?

A Yes.

Q Do you recognize any of the handwriting on there?

A Pay to the order of Allan Goberman and the amount in dollars is written by Mr. Goberman.

Q What's the date of the check?

A December 10th of 1970.

Q What's the amount?

A It's seven thousand eight hundred.

Q Who signed the check?

A Barbara Landew.

Q Do you recognize the signature on the back of

J 261

the check?

A That's Mr. Goberman's signature.

Q Do you know what he did with that money?

A No, I don't.

Q I show you what has been previously marked Defendant's Exhibit 14 for Identification as of September 18, 1974, which is a check from Olympic Sports Club dated December 8, 1970, and ask you to look at the check and see if you can identify the handwriting on there?

A It says pay to the order of--that's Mr. Parness' handwriting. Also the date and the amount.

Q It's pay to the order of whom?

A The St. Maarten Isle Casino.

Q Who signed it?

A Barbara Landew.

Q How much was it for?

A Ten thousand dollars.

Q Would you turn over the check and see if you recognize who endorsed it?

A I endorsed the check.

Q What did you do with the check?

A I cashed it at the bank.

Q Which bank?

A The bank in Nova Scotia.

Q With whom?

J 262

A With whom?

Q Who did you cash it with?

Do you remember the guy's name?

A McDonald, Paul McDonald, he was the President of the Bank.

Q You obtained how much cash for that?

A Ten thousand dollars.

Well they charged us a small commission for cashing these checks. I don't know the exact amount.

Q About one percent or something like that?

A Yes.

Q What did you do with the money?

A I used it in the Casino.

Q Did you ever tell Mr. Goberman you were using this money in the Casino?

A Oh, yes. If he was physically in the Isle I would tell him.

Q Did you discuss that that is how the money was coming to the Isle from Mr. Parness with Mr. Goberman--

A Oh, yes.

Q I show you what has been marked Defendant's Exhibit 15 for Identification as of September 18, 1974.

MR. ROSEN: Please note that Mr. Goberman has left the room.

Q It's a check from Olympic Sports Club dated

November 16, 1970 and ask you whether you've ever seen that check before and whose handwriting appears thereon? J 283

A I have seen it because the handwriting on the check is mine.

Q Which part is yours?

A Pay to the order of cash, I wrote that in. I wrote the date and the amount.

Q How much was it?

A Seven thousand two hundred and fifty dollars.

Q Who signed the check?

A Barbara Landew.

Q Would you turn it over, please, and tell us if you recognize anybody's signature there?

A Yes. It's my signature in the back.

Q You endorsed it?

A Yes, I did.

Q What did you do with the check?

A I went down to the bank and cashed it.

Q And you received money for it?

A That's right.

Q Less that little commission we're talking about?

A Yes.

Q What did you do with the money?

A I used it in the Casino.

J 264

Q What would you use it in the Casino for, for example?

A For my normal operating day-to-day basis, expenses.

Q What would that be?

A Well we have to have a bank, you know, part of the bank or this could have been also for payroll but it was just to keep my bank at a certain amount--

Q When you say "bank" you mean in case somebody won at the Casino you have to pay them in cash?

A That's right.

Q Employees were paid in cash?

A Yes.

Q Is that a rule down there?

A It was a rule because we had to pay them in guilders. They would not accept American money so we had to convert the American money into guilders and then pay them in cash.

Q And that was done by converting the dollars--

A The dollars into their own currency of the Country.

Q The dollars you obtained by cashing these checks?

A Yes.

Q Did you talk to Mr. Goberman about this check in particular, do you remember, or just in general?

A I talked in general. In general, I would say. I can't pinpint it to one or two or three checks but in general.

MR. ROSEN: Would you note that Mr. Goberman has returned, please.

J 265

MR. GOBERMAN: Pardon me?

MR. ROSEN: I just wanted to note that you returned.

MR. GOBERMAN: Did you notice I was out?

MR. ROSEN: Yes.

MR. GOBERMAN: Three and a half minutes.

MR. ROSEN: Approximately three and a half minutes.

Q Mr. Blandino, I show you what has been marked Plaintiff's Exhibit 16 for Identification as of September 18, 1974, which is a check dated November 24, 1970, on Olympic Sport Club's account.

Could you tell me whose writing appears thereon, if you can?

A Where it says pay to the order of, the handwriting is Mr. Parness. Also, the date is Mr. Parness' and the amount is Mr. Parness'.

Q How much is the amount?

A Fifteen thousand.

Q Who signed it?

A Barbara Landew.

Q Turn it over, please, and tell me whose handwriting is on the back, if you know?

A This is--I endorsed the check.

Q What did you do with it, cash it?

A Cashed it at the bank, the same normal procedure.

Q What did you do with the money?

A It went into the Casino.

Q Then is it your testimony that you discussed these occurrences with Mr. Goberman?

A I did, but like I said before, I can't pinpoint it to one check or--

Q In general you discussed when you received money from New York like this you would inform Mr. Goberman, if he was available.

Is that your testimony?

A If he was physically on the Island, yes.

Q Did there come a time, perhaps, when he wasn't there and he did come down later and ask you whether you received any money and did you say you did receive it and--

A Yes. He would ask me on certain occasions if he wasn't on the Island and if there was a junket what the front money was or what monies came down from New York.

Q I show you what has been marked Exhibit 17 for Identification as of September 18, 1974, a check dated January 6, 1971, on Olympic Sports Club.

Do you recognize the handwriting on that?

A Yes, Sir. The handwriting is mine. Where it says

pay to the order of it's mine. The date is mine and the amount is my handwriting. J 267

Q How much?

A Fifteen thousand dollars.

Q Who signed it?

A Barbara Landew.

Q Turn it over, please, and tell us whose name appears thereon?

A It's not endorsed.

Q Do you know what happened with that check? Is there any paid stamp on it?

A Yes, there is.

Q Who is it?

A First National Bank of Miami, Florida.

Q Is there anything indicating that it was negotiated through the Bank of Nova Scotia?

A Yes, there is.

Q Is there a stamp from the--

A Yes, there is.

Q Is there a date on that stamp?

A It says January 16th, 1971.

Q Do you have any specific recollection what you did with that money, if you obtained it? Did you obtain that money? Do you know?

A I handled the money. I probably would have obtained

J 268

the money and it went back to the Casino or I used it a bill or something. Something to that effect. I could paid the electric company or something.

Q I show you what has been marked Defendant's Exhibit 18 for Identification dated as of September 1[illegible] a check on Olympic Sports Club dated December 31, 197[illegible]

Can you identify the writing on that?

A Where it says pay to the order of, that's my handwriting. The date is my handwriting and the amount is handwriting.

Q How much is it?

A It's made out to the St. Maarten Isle Casino for twenty-five thousand dollars.

Q Who signed it?

A Barbara Landew.

Q Who endorsed it?

A I did.

Q What did you do with the check?

A With the money, you mean?

Q Well what did you do with the check? Did you get money for it?

A I got money for it.

Q What did you do with the money?

A I used it in the Casino.

Q I show you a photocopy of the front and

of a check previously marked Defendant's Exhibit 20 for J Identification as of September 18, 1974, and it is a photo-copy, apparently, and ask you whether you can identify this check?

A It's an Olympic Sports Club check.

Q Do you recognize the check?

A Yes, I do.

Q Do you know whose handwriting appears thereon?

A That's Mr. Goberman's. Where it says pay to the order of,it's Mr. Goberman, the date and the amount.

Q How much is the amount?

A Thirty-seven thousand.

Q How about the bank, who is it endorsed by?

A It was endorsed--it says for deposit only at St. Maarten Hotel Operation Account.

Q Did it clear the Bank of Nova Scotia?

A Yes, it did.

Q Is there a stamp on there?

A Yes, Sir.

Q May I see it, please.

Mr. Blandino, are you aware of a check to the St. Maarten Isle Hotel Casino on January 11th, 1971, in the amount of twelve thousand seven hundred dollars?

A I got so many checks. I mean, if you didn't show me the check I mean I couldn't tell you, really.

Q Are you aware of a check from Olympic Sports Club to St. Maarten Isle on January 22, 1971, in the amount of forty-two thousand dollars?

I mean, do you have any specific recollection of it? If you don't remember--

A No, I don't. I don't remember.

Q Let me ask you something. Did the Government show you the checks that I've just shown you when they were talking to you before the criminal trial in New York?

A They did show me some checks, yes.

Q Well could you tell us whether the ones we've just gone through might have been or were some of the checks that the Government showed you?

A They could have been, yes.

Q Could you tell me whether they were or were not, to the best of your knowledge?

A I can't. I really can't tell.

Q Well what did you discuss with the Government about the checks they did show you?

A Well I explained to them that I was getting these checks on a weekly basis or whenever the junkets came down and they came down weekly from Olympic Sports in New York and they were pick-ups that were supposed to be made by Mr. Parness and he would send me the checks.

In addition to those checks I also got cash

or other checks which were to pay for the electric or the water or bills that we had outstanding and many cases it was cash.

Q When you told this to the Government Agents do you recall whether they were taking any notes and who those agents might have been?

A Well I said before that it was Mr. Campbell, Mr. Friedman and another gentleman there from the F.B.I. and Mr. Campbell was the one that spent most of the time with me but Mr. Friedman was the one that showed me the checks.

Q Do you recall if any of those gentlemen were taking any notes based on your explanation?

A Mr. Campbell had some papers in front of him, like I said before, and he was the one that had all the questions in front of him and he was making notes.

Q One final question.

Goring back to all those Casino sheets, Defendant's Exhibit 1 through 10 for Identification, in each instance I asked you what would be the net to the Casino.

Do you recall that?

A Yes, Sir.

Q In each instance you gave me a net for the several junkets encompassed by those Exhibits.

Could you now give me a total what your

J 2721

verification of these Exhibits reveal was the money that Mr. Parness owed to the Casino?

A Are you just talking about the pick-ups?

Q I'm talking about each instance when I asked you what would be the net to the casino after Mr. Parness made all his pick-ups and took off all the expenses that we've been going through for the last couple of hours?

A Could I have the Exhibit back so I can compare them with my notes here?

The question you asked me is the net to the Casino.

Is that correct?

Q Taking all of Mr. Parness' pick-ups, taking off the expenses, do those Exhibits reveal to you what Mr. Parness owed the Casino or Mr. Goberman?

A Okay, just give me a couple of minutes here.

Q By the way, I'm not talking about taking into consideration the checks we just talked about. I'm just talking about these Exhibits, what do these Exhibits show.

A Okay.

Q Again I want to stop you.

Where you indicated Mr. Parness was not involved he's not involved. When you indicated that a junket belonged to Mr. Goberman, you take that into consideration as well.

What Mr. Parness himself owed the Casino from these papers.

MR. ROSEN: After that I'm through with him, Mr. Goberman.

A I have a total of a hundred and fifty-nine thousand ninety-five dollars and twenty cents. I took--I'll try to explain to you how I arrived at the figure.

I have on Exhibit 167 a net to the Casino of seventy-six thousand six hundred and fourteen dollars and twenty cents.

Q Go ahead.

A Exhibit 168 I did not take that one into consideration, that was Mr. Goberman.

Q Go ahead.

A Exhibit 169 I did not take that one into consideration, that was Mr. Goberman's.

Exhibit 170 I have a figure of four thousand four hundred and sixteen dollars and ten cents.

Exhibit 171 I have a total of sixty-six thousand one hundred and twenty-three dollars.

In Exhibit 172 there's a total of ten thousand one hundred and fifty-two dollars and ninety cents which I subtracted it because that was due to Olympic.

Q Okay.

A That was a credit. Exhibit 173 is three thousand

ninety dollars and fifty cents, that was also a credit. I subtracted it.

Exhibit 174 is one thousand five hundred, that was also a credit to Olympic. I subtracted that.

You have Exhibit 175 which is seventeen thousand eight hundred and fifty due to the Casino.

Exhibit 176 is eight thousand seven hundred and fifty-six dollars and twenty cents due to the Casino.

Exhibit 177 is seventy-nine dollars and ten cents due to the Casino and after adding it on the machine I come up with a total of one hundred and fifty-nine thousand ninety-five dollars and twenty cents.

Q Now from that figure would you not have to deduct the money that Mr. Wolfer did not pay? That money, assuming it was not collected because you said Exhibit 175, seventeen thousand eight hundred and fifty dollars was due to the Casino?

A Yes.

Q Assuming he didn't pay it then you would have to take that figure off.

Am I right?

A Right.

Q The last deduction from the gross figure you have there, the bottom line, you have there deduct seventeen thousand eight hundred and fifty dollars?

A I already did that.

Q And what do you have?

A A hundred and forty-one thousand two hundred and forty-five dollars and twenty cents.

Q This is your calculations based on the records that I've shown you today, not the checks now, the Exhibits I showed you today that were previously marked in New York--

A That's right.

Q That's what you calculate was due from Mr. Parness to the St. Maarten Isle Hotel Casino or Mr. Goberman?

A According to the Exhibits that you showed me this is the correct figure.

MR. ROSEN: Mr. Goberman, do you have any questions of Mr. Blandino?

MR. GOBERMAN: I certainly do.

CROSS EXAMINATION

BY MR. GOBERMAN:

MR. GOBERMAN: First of all, I didn't receive a copy of the last deposition that was promised they'd send it and it would take two weeks.

MR. ROSEN: I apologize, I thought since I might see you here--

MR. GOBERMAN: It would be difficult for me to work without it.

J 2761

MR. ROSEN: I want to --

MR. GOBERMAN: If you haven't got it it's all right. I don't think I'll need it. I'm just telling you that you didn't send it to me.

MR. ROSEN: I apologize.

(There was a discussion off the record.)

MR. GOBERMAN: I see three letters from you, I don't know if you want them on the record here. Here's a letter dated October 14th, 1974. Mark that, Sir.

MR. ROSEN: Well let's mark this Plaintiff's Exhibit as of today.

(The Reporter marked P-1 for Identification, a letter dated October 14, 1974.)

MR. GOBERMAN: Where you state that you heard that I have an attorney and on the bottom, that's a copy, on the bottom I wrote I don't know anything about it.

MR. ROSEN: Okay.

MR. GOBERMAN: I have a copy of your letter of October 23rd where you advised me that on today you're going to take a deposition of John Blandino, you may attend together with your Counsel to cross examine.

MR. ROSEN: That could be P-2.

(The Reporter marked P-2 for Identification, a Letter dated October 23, 1974.) J 277

MR. GOBERMAN: And October 29th you advised me I'm to be here for a deposition that you acknowledge that your previous letter indicating that I have a Counsel had been in error.

MR. ROSEN: That will be P-3.

(The Reporter marked P-3 for Identification, a letter dated October 29, 1974.)

MR. GOBERMAN: Could I call Mr. Blandino "Johnny" for the record instead of --

MR. ROSEN: You can even call me Mike.

MR. GOBERMAN: Just so we understand if I say Johnny I'm speaking to Johnny Blandino.

BY MR. GOBERMAN:

Q Johnny, you know what we're here for?

A Yes.

Q What are we here for?

A To take my deposition.

Q In what case?

A On a Civil Case that you have brought against Mr. Parness.

Q Johnny, who hired you to work at the hotel and about when were you hired?

A I was hired by Mr. Peter Grim some time in March of 1969.

J 278

At that time he was a consultant for the hotel.

Q As the builder I was building the hotel at that time. The hotel was not complete?

A That is correct.

Q And you came down to St. Maarten about when?

A I came down to St. Maarten April 1st of 1969.

Q At which time I was still building the hotel. Is that correct?

A That's correct.

Q I think at that time we thought the hotel would be opened in about six months--

A Well--

Q --if you recall?

A Well when I was--when I went for the interview with Mr. Grim he told me that the hotel would open June 1st.

Q Ninety days, approximately?

A Sixty days.

Q Sixty days.

When did the hotel open?

A It finally opened January the 14th of 1970.

Q How many months would that be, would you say, from the time--

A Seven months.

Q I paid you for those seven months--

A Yes.

Q --you were there?

A Yes.

Q I'd say out of the seven months a month or two before the hotel was opened that would be your orientation, getting ready to operate the hotel but I did pay you for--

A I was paid for the time I was in St. Maarten.

Q I think you and I, Johnny, had a very close relationship, didn't we?

A That is correct.

Q As a matter of fact, I appreciated the fact that you told me that you always looked upon me as your father.

Is that correct, Johnny?

A That is correct.

MR. GOBERMAN: Why are you smiling, Mr.--

MR. ROSEN: I'm only smiling, Mr. Goberman--

MR. GOBERMAN: If I'm off the track, tell me but don't laugh in my face.

MR. ROSEN: No, I have fine memories of your regarding Mrs. Landew as your daughter. It must be a nice--when you testified that Mrs. Landew was like your daughter and Mr. Blandino like your son, it's nice to know so many people thought so highly of you.

MR. GOBERMAN: They did and they still do.

MR. ROSEN: I think that's very nice.

J 280

Q The only problems you and I ever had, Johnny, was we were both after one thing, we wanted to make a success of the motel?

A I don't think we ever had any problem.

Q No problems, no.

There came a time when Mr. Parness took over the operation of the Casino?

A That is correct.

Q Is that correct?

A Yes, Sir.

Q When Mr. Parness took over the operation of the Casino, to use an expression that Mr. Rosen uses, would it be fair and honest for you to say that when Mr. Parness took over the operation of the Casino that Mr. Goberman had very little to do with the operation of the Casino, that Mr. Parness was running the Casino and responsible for running it.

Would it be fair and honest to say that, Johnny?

A Let's get back to some dates.

From what period of time are you talking about?

Q I don't have the records here, Johnny, but I would--

MR. GOBERMAN: If I may have those Exhibits, please.

MR. ROSEN: You're talking about the ones I showed Mr. Blandino? J 281

MR. GOBERMAN: Yes.

BY MR. GOBERMAN:

Q Johnny, I can't tell you this all together but Feldman came down first, he represented Mr. Parness, he was a front for Mr. Parness and then--

MR. ROSEN: I object to the use of the word "front."

MR. GOBERMAN: Well he was fronting for Mr. Parness and I think you'll find it if you have a copy, Mr. Rosen, of -- I hate to bring the trial up again.

I think you'll find that Mr. Feldman so admitted that he was a front for Mr. Parness for reasons that you know as well as I do.

MR. ROSEN: I don't know any reasons, Mr. Goberman. I don't want to interrupt you. Just go ahead.

I'll reserve all objections to some later date.

Q I can't give you the exact date.

When would you say, Johnny, Mr. Parness, in your mind, became your boss? When was I not your boss any longer, when were you two gentlemen running the Casino?

A Well I would say that as long as you were on the

J 282

Island you were my boss--

Q You felt I was your boss?

A Yes, and so was Mr. Parness. I felt that I had two bosses.

Q You had two bosses?

A I always looked up to you as a boss, you know that.

Q Well I appreciate that and I know that made some of the things that happened later and the fact of your personal feelings toward me very hard on you, some of the things you had to do.

MR. ROSEN: I object.

Q Are these the sheets that were marked that you say my handwriting--which ones did you say belonged to me when you said they belonged to me?

A The ones that have my initials.

I'm referring to your handwriting where you see my initials and I felt that--

Q Well Johnny, this is not my handwriting.

A Well I felt that this--

MR. GOBERMAN: For the record you have here--you have here an Exhibit--what Exhibit Number is this?

MR. ROSEN: That would be D-1, I think, on the examination.

MR. GOBERMAN: Well somebody will have to

show me.

J 283

(There was a discussion off the record.)

MR. GOBERMAN: Now would you tell me what the record states about D-1, please.

MR. ROSEN: Mr. Goberman, you want him to go all the way back?

MR. GOBERMAN: Well I want to know what it says.

Q All right. You can tell me.

If Johnny has initialled it, do we admit here if you initialled it that you said this was my handwriting?

A Yes, Sir. That is correct.

Q Johnny, you know that's not my handwriting.

A I don't have my initial on that page.

Q Yes, you do.

A No, just the pages.

Q Oh, I thought you meant the whole thing.

A No. I initialled the pages that I felt that it was your handwriting, to the best of my knowledge.

Q Well this is my handwriting, Johnny, you didn't initial this.

A Yes, that is your handwriting.

Q That's my handwriting.

MR. ROSEN: Would you initial it now, would you let him initial it now.

J 284

I may have missed some at the beginning, Mr. Goberman. I think I skipped the beginning pages at the beginning.

THE WITNESS: The first three.

Q This is my handwriting on this page, Johnny.

MR. ROSEN: Would you initial it, Mr. Blandino, please.

THE WITNESS: Yes, Sir.

Q This top sheet is my handwriting, Johnny.

A The reason why they're not initialled is that Mr. Rosen skipped the front pages.

Q All these fronts, this is my handwriting here and so is this.

A (The witness complies by inserting his initials.)

Q And this top sheet, Johnny.

A (The witness complies.)

Q I see you did mark this one and this is my handwriting, you marked this and this is my handwriting. Now let me have them back.

Now actually, Johnny, my handwriting is just a sheet that was put on top of the other sheets, is that correct, none of the worksheets is my handwriting?

A That's not correct.

Q Well now, you show me in the worksheets where my handwriting is.

Let's take one at a time. Let's take J 285 Exhibit 167.

MR. GOBERMAN: What number are you using?

MR. ROSEN: D-1.

Q D-1, all right.

Come over here, Johnny, and let's work this out.

Here's a cover sheet that is my handwriting.

A Yes, Sir.

Q This is part of the cover sheet--as a matter of fact, it's my notations.

Now here you have one--

A This one.

Q That's not my handwriting.

A I felt this was your handwriting.

MR. GOBERMAN: For the record, the only--

A Let's just go through them one by one and --

Q Here, Johnny, these are worksheets and none of these are my handwriting on these worksheets.

You look them over.

Here's Mrs. Barbara Landew's here on this sheet. That's not my handwriting--

A I felt that the ones that are initialled --

Q You initialled this and it's not my handwriting.

This could be Harvey's, this could be--

used to work for us?

A Lou Calavicchi--

Q Therefore, on Exhibit D-1, Johnny, it was stated it was my handwriting and you so marked the top sheet. I placed the top sheet on the worksheets and that's the only part of this Exhibit that's my handwriting.

MR. ROSEN: Mr. Goberman, with all due respect I intend to ask you that when you're under oath--

MR. GOBERMAN: I'm under oath now.

MR. ROSEN: Well if you--

MR. GOBERMAN: You told me I can cross examine Johnny.

MR. ROSEN: I don't want to stop you, at all.

MR. GOBERMAN: I wish you wouldn't.

MR. ROSEN: Okay, I'm sorry, Sir.

BY MR. GOBERMAN:

Q D-2, I just told you the cover is mine and this--

A Yes.

Q Because I went over these but the worksheets are not mine. My handwriting is not on --

A But they're not initialled, this is the only one that is initialled.

Q I understand that. I didn't want any

misunderstanding here. I didn't want the record to show that where you initialled part of an Exhibit and said it was my handwriting, Johnny, that I had written the whole thing up which you know I didn't.

I believe in this one, if you look at your thing, you have that marked as a Goberman junket.

Am I correct?

A Which one?

Q You have Goberman junket.

A What Exhibit is that?

MR. ROSEN: D-2 which was 168.

A Yes.

Q Now that might be misunderstood, Johnny.

What do you mean when you say Goberman's junket?

Do you mean that I brought these people down, that I operated the junket?

A Yes, that you brought them down.

Q Johnny, now did I ever bring any junkets down?

A What do you mean, physically? I'm not saying physically.

Q Did I ever bring up a junket, that's what you mean by bringing a junket down, a person who makes up the--

A No, the person--

J 288

Q Excuse me.

A --is the junketeer.

Q Pardon me for interrupting you.

The reason why I say this is because there has to be a distinction here.

When you say a Goberman junket--

A Yes, Sir.

Q --by that do you mean it's not a Parness junket?

A What I mean--

Q That Parness had no responsibility --

A That the responsibility fell on Mr. Goberman, not that you went out and gathered the people and brought them down to the Island.

Q Well I would say that if I were reading the testimony that you have given here and that the Court Clerk has--the Stenographer has put in his records, as you go on you'll say this is a Parness Junket, this is a Feldman Junket and in the same tone you say this is a Goberman Junket.

I, as any party not knowing the difference would have to assume, Johnny, that a Goberman Junket is one that was gathered by Goberman and brought down--

A That's not what I meant. I meant that the responsibility --

Q Tell me what--

A When I mentioned before on Exhibit 168 and Exhibit 169 and I referred to these two Exhibits as Goberman Junkets what I meant to say is that the responsibility or the win and loss and the pick-ups of that junket it was the responsibility of Mr. Goberman. It's not that Mr. Goberman went out and gathered the junket himself. That's why he was utilizing junketeers.

Q In other words, to make it plainer, Mr. Parness had nothing to do with the junkets that's marked as a Goberman Junket. He's not responsible to pick up unless as a favor we might have asked him to do it but we didn't.

MR. ROSEN: Did you answer that question?

THE WITNESS: What was that?

MR. ROSEN: Would you answer that question that he just asked you?

You shook your head. What he said was right?

THE WITNESS: I don't know if he asked them as a favor to pick up the money for him.

Q No, I say in case we would ask him as a favor, which we did not ask him, otherwise he had nothing to do with it?

A That's right.

Q It just happens that--so it's clear now here what you meant by Goberman's Junket.

J 290

You have your initials on Number 4. Once again, Johnny, I would assume that if I was a disinterested party and I read all this and I read your testimony and you have my initial on the top page that I would have to assume that you meant everything here was my writing but it just happens to be the covering page, if you look at it.

A The covering page--

Q With my writing--

A And notations on the bottom of the last page.

Q Yes.

A Which says, "Milt in 12/9/70, out 12/13/70."

Q Right.

Now Johnny, where did I get these figures, where did I get these sheets?

A Where did you get the sheets?

Q To the best of your knowledge where would you say I got these sheets?

A To the best of my knowledge you would either have gotten those sheets from myself or Bernadette.

Q I doubt if I got it from you. I'll tell you where, in case you don't know.

I got them from Bernadette.

A I gave you sheets.

Q The sheets you gave me are not--you gave me sheets up to a point. You did not give me these sheets

we just went over.

J 291

When it came to the time when Parness was responsible and running the Casino I couldn't get anything out of you, Johnny.

A Let me ask you a question.

Q Yes, Sir.

A Did you ever ask me for any sheets in that Casino that I didn't give to you?

Q I can answer that.

A Just answer it yes or no.

Q Sometimes you didn't and sometimes you said, "Milt will kill me if I give you this."

A That's not so.

Q Just a minute, Johnny.

A We're both under oath.

Q I know we're under oath.

A That's not so.

Q You know as well as I what is so.

But we have agreed that the ones that you marked Goberman that in most cases it was just the top sheets that I used as worksheets?

A I agreed that ever sheet that is in those Exhibits that has my initial I feel that is your handwriting and it was written by you.

Q Johnny, well you've been mistaken. In some I

agree with you it's my handwriting.

A If you disagree--

Q Johnny, in trying to describe the method of the junkets whereas you said a deduction must be made for air fare and so forth and so on you don't quite describe it in total as it was. Therefore, I must remind you and if I'm wrong please correct me.

You made no mention of the women's air fare that was put up in advance where the women paid two hundred dollars a head or two fifty, whatever it was. I don't want to go through--I don't want to have the Stenographer go through all that testimony, Johnny, because we'll be here until Kingdom Come.

A Yes.

Q You made no mention of the fact that expenses for planes and so forth could have been taken out of the front money--

A Well when it comes--

Q Well--

A Go ahead.

You want to continue?

Q Yes, I would like to continue.

A Go ahead and then I'll --

Q All right.

You also made no mention of the fact that you

were under Mr. Parness' orders keeping two sets of books?

A Keeping two sets of books? J 293

Q Keeping two sets of books, Johnny.

A That's not true.

Q Well now, I accuse you of keeping two sets of books under Mr. Parness' orders and if you say it's not true you certainly are allowed to say it's not true.

A It's not true because--

Q All right.

A It's not true because the only books that were kept was those worksheets.

Q Johnny, I'm not going to argue the point with you.

A Yes, but it's not true.

Q I saw them.

A Where did you see them?

Q I saw them in the Casino Office, Johnny. Now you know you were keeping two sets of books--

A I don't know that.

Q Let's not get to a point--

A We have to clarify this.

Q We are clarifying--

A Before we go any further, because there was no such thing as two sets of books.

Q We are clarifying it, Johnny, and I'll tell

J 294

you why.

We're going to clarify it simply like you and I always do. We're not going to argue about it because the last time I was here at a deposition we ended up shouting at each other and that's no way for men to get along and you and I aren't going to do that.

I made a statement you were keeping two sets of books and you said "I didn't keep two sets of books". Well it's on the record, let it go at that.

There has never been any anger between you and I and you understand that.

A The thing that bothers me is you said you saw them and that's not so because there were never two sets of books. We worked strictly from the worksheets--

Q Johnny--

A Just a minute. And if I remember, to the best of my recollection, some time in the beginning of 1971 we had a Mr. Eramun Wing which is a C.P.A. with his wife, come down and set up the books for us but we--our books were strictly those worksheets. And then we continued from the system that Mr. Wing had taught me what to do with the books.

Q All right, Johnny. I'll accept your answer.

My statement stands, as far as I'm concerned and your statement stands, as far as you're concerned. I can't get you to say something you don't want to.

You and I don't want to pull all those checks out. You can't, Johnny, honestly say that those checks that were shown to you, those Exhibits, the various amounts, you can't honestly say where the money went and what you did with it because you don't remember.

A I do remember.

Q You do remember?

A I took the checks, cashed them.

Q Cashed them?

A And I used them for operating capital in the Casino and that was money owed by Mr. Parness to the Casino.

Q You never used any of those checks to repay an overdraft for bad checks--I'll take the word overdraft out.

Would you say that you and Mr. Parness had a very warm relationship with the Managing Director of the Bank of Nova Scotia on the Island in St. Maarten?

A As warm as you had with him too.

Q Well I always had a good relationship with him because I had borrowed a second mortgage from--

A Well as warm as--

Q Well to a point where you and Mr. Parness would take checks in there, they would cash it?

A That is correct, and they would charge us.

Q Whether they were Olympic checks or whosever

J 296

checks they were?

A They would charge me a percentage and they would cash the checks. That is correct.

Q Johnny, in the office of the Hotel there were some safe deposit boxes that were used for guests of the hotel to deposit jewelry and so forth?

A That is correct.

Q Do you recall that I had, I believe, two safety deposit boxes, I used two of those boxes?

A I don't remember the amount but--

Q But I did have boxes?

A That is correct.

Q Didn't I at one time tell you that there was twenty thousand dollars in this one box that belonged to my wife?

A No, you told me--I heard about the twenty thousand dollars. I remember distinctly that we had lost on a junket and we needed twenty thousand dollars. We needed twenty thousand dollars and I asked Mr. Parness for the twenty thousand and it was a Sunday afternoon, I'll never forget it, Mr. Parness, in the course of a couple of hours gave me the twenty thousand dollars and then that night or the following day you told me that you went to Mr. Clem Labega, that you went to Mr. Clem Labega and you borrowed twenty thousand dollars from him and that's where Mr. Parnes

got the money to give to-- J 297

Q I think, Johnny, that what you're saying is half right and half wrong, to the best of your recollection.

A I'm just giving you the best of my recollection.

Q You were not in that office when I handed Mr. Parness that twenty thousand dollars?

A I was not. It's a matter of fact that when I was in Court at the trial or I don't remember, I've been up here so many times, they showed me a note that apparently somebody signed my name to it that I owed twenty thousand dollars, that I received twenty thousand dollars from you but I never signed that note.

If you recall, Mr. Richard Gibson was brought into this whole situation. I remember that distinctly and they showed me this note but I never signed any note to anybody for twenty thousand dollars.

Q Appropo to that note it was called to my attention, too, and I was put on the griddle on that and there were handwriting experts brought in and it was proven that it wasn't my signature?

A It sure wasn't mine.

Q It was proven that it wasn't mine because Mr. Gibson accused me of signing the note.

A That's right.

Q As far as you know, Johnny, I was the owner

J 298

of the Hotel and the Casino.

Isn't that correct?

A That's true, yes.

Q You knew I put up all the money--

A When it goes to the financial end of it, as far as I know you were the owner of the hotel and the casino.

Q And the Casino, even though it was a verbal licensing, the Casino was in my name, the Casino's license?

A That is right, yes, Sir.

Q A short time after I came back to you and said "Johnny, I want my twenty thousand dollars that I loaned to Milt." To straighten your story out Milt took care of, like he usually did, of the pay-off of when the junket left and it wasn't that he didn't have enought money to pay them off but he was given a lot of checks at that time. He didn't have enough cash and Milt came to me and said I'm going--I need some cash and when I get these checks cashed I'll go to New York. I need twenty thousand, I'll pay it back--

A I wasn't them--

Q I understand that.

A --when this took place.

Q I'm going to have to bring you in on this, Johnny--

A You can.

Q And based on that I gave Milt the twenty thousand dollars. Then I came to you at a later date and said "I want my twenty thousand dollars back" and as a matter of fact I said "I'm going to get the Marshall to close the Casino down if you don't pay the twenty thousand dollars."

Do you remember that?

A What I remember of the twenty thousand dollars is first you came to me --

Q Yes.

A Whether it was the evening of when this took place of the twenty thousand or whether it was at a later date. First you came and told me that you borrowed the money from Clem--

Q Yes, I did that for a reason.

A Two days later then you told me that it was your wife's money --

Q That's right.

A --and you gave me two different stories--

Q That's right.

A --and I said I have absolutely nothing--

Q Right.

A --to do with this because I received the money from Mr. Parness. If I am going to pay back this money to anybody I'm going to pay it back to the person that gave it to me--

J 300

Q That is correct.

A Whatever went behind closed doors, if anything took place, I wasn't there.

Q That is correct, Johnny.

Now did I say the money belonged to Mr. Labega because perhaps that might be one way of getting it back from Mr. Parness if he knew that I had borrowed it from Mr. Labega because Mr. Labega was an important man in the Island and he was a Government Official, if you recall?

However, at a later date I made a trip and I came down and I think Mr. Parness' son was in the Hotel with you or operating the Casino with you.

Do you remember that, his son was working with you in the Casino, was he not, Johnny?

MR. ROSEN: At what time?

MR. GOBERMAN: At that time--I haven't got the record but Johnny admits that the son was working with him.

Q I said, Johnny, I want my twenty thousand dollars and of course you said I can't give it to you, correct?

A That's right.

Q And I said, "Well Johnny, I'm going to get a Marshall and I'm going to close this Casino up unless you give me the twenty thousand dollars" and you said, "Well don't

do anything, I'll get in touch with Milt." I said, "All right." and the next day is it not correct you went to San Juan, you met Milt because by that time he wasn't allowed back on the Island any longer. Now think carefully, Johnny, you went to San Juan on a Saturday morning and came back Saturday night?

A I went to San Juan on so many different occasions I can't say that I specifically went to San Juan about the twenty thousand dollars. You, Mr. Goberman, know as well as I do that this twenty thousand dollar situation, as I stated before, I told you I can only pay back the twenty thousand dollars to the person that gave it to me because I am responsible--

Q Right.

A And that is Mr. Parness. If you want twenty thousand dollars--because I was not there and didn't know what took place behind closed doors, you would have to take it up with Mr. Parness --

Q Right.

A --as far as I was concerned it was Mr. Parness' money.

Q Right. The only reason why I'm bringing you in is because of this next move you made.

When I said I'm coming in here, Johnny, I knew that you couldn't possibly -- you'd have to be faithful

J 302

to your boss, he was your boss, you certainly weren't going to give me twenty thousand dollars of your boss' money --

A You were also my boss.

Q If I was your boss you would have given me the twenty thousand dollars. If I was your boss I could have walked in and said, Johnny, screw you, it's my Casino.

A Mr. Goberman, let's just not get excited.

Q I'm not getting excited.

A Did you not have keys to that door--

Q Yes.

A --and the combination to that walk-in--

Q Right, and where was the money all this time? Weren't you keeping the money elsewhere in San Juan at this particular time?

A That's not true, Mr. Goberman.

Q Wait a minute.

A How could I keep money in San Juan? Where?

Q I don't know.

A That's not true.

Q But do you remember, now please try to think, Johnny--

A I am thinking.

Q That you went to San Juan and you said I'm going to see Milt and tell him that you're here, you want your twenty thousand dollars and you came back that night

and what happened that night? Because if you don't remember I'll refresh your memory. J 303

A I don't remember because I made so many trips to San Juan --

Q This one particular trip--

A Okay.

Q Well here's what happened that night--

A Give me--

Q Here's what happened.

A Tell me approximately when this took place.

Q I haven't got the date in front of me but his son was there--

A Mr. Goberman--

Q Now wait a minute. But you do remember this. You came back and I said, "Johnny, what did he say?" He said, "fuck him and throw him out of the Hotel by tonight." And you remembered that night because I left the Hotel and when I came back you, under his orders, had my clothes packed in cardboard cartons and I was forced out of the Hotel and I went--see Johnny you're beautiful and I'll tell you why.

I went to the Little Bay Hotel, I was forced out of my own Hotel under his orders--

A Mr. Goberman--

Q Just a minute. I called you from the Little

304

Bay Hotel, I said, "Johnny, you've got to help me out"--
I still owe you two hundred dollars, Johnny.

A Mr. Goberman, that's not right.

Q Did you not--

A You're getting your dates mixed up.

Q I'm not getting my dates mixed up.

A Please--

Q Did you put your hand in your pocket and give me two hundred dollars of your own money--

A That was--

Q Answer yes or no.

A That was another trip you came down and went directly to the airport to--

Q No.

A Please let me finish. This was another trip you came down directly from Pennsylvania, you didn't even stop at the Hotel. You went to Little Bay. Three days later you called me up on the phone and you said, "I'm stuck here, I have no money to pay this bill" and I said, "Mr. Goberman, we always had a close relationship and how much is the bill?" I think it was three hundred dollars or whatever it was and you came down to the St. Maarten Hotel and I gave you the money.

Q Now--

A Let me finish. And you paid your bill and you went to

Pennsylvania--

Q And left a bad check on the Island for five hundred dollars.

A I don't know that.

Q I still had to leave a bad check for further expenses--

A But wait a minute.

Q Did you throw me out of the Hotel or not, St. Maarten Isle Hotel?

A I had asked you to leave the Hotel --

Q Why?

A Wait a minute. Let me finish, please.

I had asked you to leave the hotel and we had made the necessary arrangements to get you a house where you put your desk and put all your files and you put everything. You're getting your dates mixed up.

Q No, Johnny, no. My furnishings, my desk and everything was moved while I was away from the Island to the little house across the street from the cemetary that the Casino -- Carlos of the Casino was living there.

A Yes, and we were paying the rent on the house.

Q Right, and--

A And you moved in--

Q I never moved in there, Carlos lived there.

A He was not living there at the time.

J 306

Q I never lived there, Johnny. If there's a mix up in the dates, okay.

A There is a mix up, Mr. Goberman.

Q I want to ask one question.

Did you throw me out of the Hotel, you and Parness' son pack my--everything I had that was in the room, my permanent room where I had a lot of clothing, put it in cartons and didn't you not say to me when you talked to Mr. Parness for my twenty thousand dollars you came back and you said that he said "fuck him, throw him out of the Hotel, I don't want him in the Hotel."

Do you remember that or don't you?

A He, Mr. Parness told me--

Q Did you throw me out of the Hotel?

A I don't remember the "fuck him" or this and that. I did tell you to leave the Hotel.

Q That's right.

A Yes, I did, and you went to the little house down at the road that we had--we put all your things in that house and the Casino was paying the rent and eventually when you left that house that's when Carlos moved in there--

Q I never lived --

A Because we were paying the rent anyway.

Q You're mixed up, Johnny. I never stayed there. I had to break in there to get to my records.

ten thousand dollars in cash from the Casino in January or February, 1971?

A No, Sir.

Q When to your knowledge did Mr. Parness' son Ronald come to the Casino?

A I don't have that with me. I can find it if you want to.

Q I would ask you to find it. I would suggest it was in August of 1971.

A I don't remember the date. I'm sorry.

Q That would be the earliest, I would say.

Mr. Goberman, I don't want to hold you up.

MR. ROSEN: Off the record.

(There was a discussion off the record.)

MR. ROSEN: Can we just put on the record that I understand in light of your not feeling well--

MR. GOBERMAN: And a four-hour drive.

MR. ROSEN: And a four-hour drive, I'll--

MR. GOBERMAN: And you were an hour late.

MR. ROSEN: That's correct. And I'll forego asking you any questions.

The only thing is I would have some more questions of Mr. Blandino.

MR. GOBERMAN: Johnny will do the best to tell you the truth and sometimes he may remember correctly

I broke into that house. It had a jalousie window on the door and I had to put my hand through the jalousie window like this (Indicating) to open it up to go in and try to get where I found some of my Casino records.

MR. GOBERMAN: All right. I'm not feeling well. I came here only because you asked me to come. I'd like to go. I've been under medication and all.

MR. ROSEN: Well Mr. Goberman, I appreciate your not feeling well. I won't go ahead with anything further with you out of respect for your condition but I do have some questions to ask you which we'll have to put over at another time.

MR. GOBERMAN: I have a four-hour drive and I'm very tired.

MR. ROSEN: In view of the circumstances--

MR. GOBERMAN: If you want to take five minutes, okay.

It doesn't matter if you send me a copy of the other deposition.

Go ahead, Mr. Rosen.

DIRECT EXAMINATION

BY MR. ROSEN OF MR. GOBERMAN:

Q Mr. Goberman, did you or did you not take

and sometimes he don't.

MR. ROSEN: I don't want to waive my right to finish up with you, Mr. Goberman.

MR. GOBERMAN: May I ask Johnny a personal question?

MR. ROSEN: Take him outside if you want.

I want to indicate on the record that Mr. Goberman and Mr. Blandino left the room together with my consent, upon Mr. Goberman's request.

(At this time the deposition is concluded.)

310

CERTIFICATION

I, JOSEPH NATALE, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the within depositions of JOHN BLANDINO and ALLAN N. GOBERMAN, who were first duly sworn by me, at the place, on the date, and within the matter as hereinbefore set forth.

I further certify that I am neither attorney nor counsel for, nor related to nor employed by any of the parties to the action in which these depositions were taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in the action.

Joseph Natale C S R

Joseph Natale
A Notary Public of the State of New Jersey

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310

C E R T I F I C A T I O N

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I further certify that I am neither attorney nor counsel for, nor related to nor employed by any of the parties to the action in which these depositions were taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in the action.

Joseph Natale C.S.R.

Joseph Natale
A Notary Public of the State of New Jersey

J 311

FILED

2-5-74

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ALLAN N. GOBERMAN)
) CIVIL ACTION
VS.)
MILTON PARNESS AND) NO. 74-182 OF 1974
BARBARA PARNESS)

COMPLAINT

1.. THE PLAINTIFF IS ALLAN N. GOBERMAN WHO RESIDES AT 104 VILLAGE GREEN LANE, LANCASTER, PA., AND WHOSE MAILING ADDRESS IS POST OFFICE BOX 1578, LANCASTER PA., 17604

2.. THE DEFENDANTS ARE MILTON PARNESS AND BARBARA PARNESS, HUSBAND AND WIFE, WHO RESIDE AT VERONA, NEW JERSEY.

3.. JURISDICTION IS CONFERRED UPON THE DISTRICT COURT BY 18 U.S.C. § 1964.

4.. AT ALL TIMES RELEVANT TO THIS COMPLAINT UNTIL ON OR ABOUT APRIL 3, 1971, THE PLAINTIFF WAS THE OWNER OF 90.5 PERCENT OF THE STOCK OF ST. MAARTEN ISLE HOTEL CORPORATION N.V. (HEREINAFTER REFERRED TO AS "HOTEL CORP"), A NETHERLANDS ANTILLES CORPORATION.

5.. DURING THE SAME TIME, THE PLAINTIFF WAS THE LICENSED OPERATOR OF A GAMBLING CASINO LOCATED ON THE PREMISES OF "HOTEL CORP." AT ST. MAARTEN, NETHERLANDS ANTILLES (HEREINAFTER REFERRED TO AS "ST. MAARTEN ISLE CASINO")

6.. DURING THE YEARS 1970 AND 1971 THE DEFENDANTS ENGAGED IN ORGANIZING GAMBLING JUNKETS TO "ST. MAARTEN ISLE CASINO".

7.. FROM ON OR ABOUT SEPTEMBER 1, 1970, THE DEFENDANTS UNDERTOOK TO COLLECT MARKERS REPRESENTING GAMBLING LOSSES OWED TO THE "ST. MAARTEN ISLE CASINO" FROM PARTICIPANTS IN THESE JUNKETS AFTER THEY HAD RETURNED TO THE UNITED STATES.

EXHIBIT - 2

COPY

8.. DURING THE YEARS 1970 AND 1971, THE DEFENDANTS COLLECTED BUT FAILED TO DELIVER TO THE PLAINTIFF $650,000.00 FROM SUCH JUNKETEERS

9.. ON OR ABOUT OCTOBER 6, 1970 THE PLAINTIFF BORROWED $150,000.00, SECURED BY HIS STOCK INTEREST IN "HOTEL CORP.", IN ORDER TO OBTAIN WORKING CAPITAL FOR "HOTEL CORP."

10.. BY JANUARY 25, 1971 THIS LOAN WAS PAST DUE AND THE SUBJECT OF A FORECLOSURE ACTION BY THE CREDITOR.

11.. BETWEEN JANUARY 25, 1971 AND FEBRUARY 9, 1971, DEFENDANT MILTON PARNESS FALSELY REPRESENTED TO THE PLAINTIFF THAT HE HAD NOT BEEN ABLE TO COLLECT SUFFICIENT MONEY ON THE AFORESAID MARKERS TO PERMIT THE PLAINTIFF TO REPAY THIS LOAN FROM THAT SOURCE.

12.. BETWEEN FEBRUARY 1, 1971 AND FEBRUARY 9, 1971, THE DEFENDANTS SENT THE PLAINTIFF $160,000.00 TO REPAY THE AFORESAID LOAN AND CERTAIN RELATED EXPENSES, UPON THE CONDITION THAT THE PLAINTIFF REPLEDGE HIS STOCK INTEREST IN "HOTEL CORP" TO THE DEFENDANTS.

13.. FROM AND AFTER FEBRUARY 9, 1971, THE DEFENDANT CONTINUED TO DIVERT AND WITHOLD KNOWLEDGE OF MARKER COLLECTIONS DUE THE PLAINTIFF SO THAT THE PLAINTIFF WOULD NOT BE ABLE TO REPAY HIS LOAN TO THE DEFENDANT.

14.. ON OR ABOUT APRIL 3, 1971, THE DEFENDANTS CAUSED A FORECLOSURE OF THE PLEDGE, THEREBY GAINING CONTROL OF "HOTEL CORP."

15.. "HOTEL CORP." CONSTITUDED AN "ENTERPRISE" WITHIN THE MEANING OF 18 U.S.C. § 1961(4), WHICH ENTERPRISE WAS ENGAGED IN, AND THE ACTIVITIES OF WHICH AFFECTED, INTERSTATE AND FOREIGN COMMERCE.

16.. THE ACTIONS OF THE DEFENDANTS IN OBTAINING CONTROL OF "HOTEL CORP." CONSTITUTED A PATTERN OF RACKETEERING ACTIVITY WITHIN THE MEANING OF 18 U.S.C. §§ 1961 ET SEQ.

COPY

17.. THE DEFENDANTS HAVE BEEN TRIED AND CONVICTED OF CRIMINAL VIOLATIONS OF 18 U.S.C. §§ 1961 ET SEQ.; IN A PROCEEDING IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK 73 CR. 750..

18.. AS A DIRECT RESULT OF THE DEFENDANT'S PATTERN OF RACKETEERING ACTIVITY THE PLAINTIFF HAS BEEN DAMAGED IN THE AMOUNT OF $4,650.000.00.

WHEREFORE, PLAINTIFF DEMANDS JUDGEMENT FOR TREBLE DAMAGES IN THE AMOUNT OF $13,950.00000 AGAINST THE DEFENDANTS.

ALLEN GOBELMAN

COPY

J 314

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186

OLYMPIC SPORTS CLUB, INC.

Pay to the order of ALLAN N. GOBERMAN — 7500 00

SEVEN THOUSAND EIGHT HUNDRED — DOLLARS

WEST ORANGE OFFICE
NATIONAL NEWARK & ESSEX BANK
WEST ORANGE, N.J.

EXHIBIT 31

J 315

ONLY COPY AVAILABLE

184

OLYMPIC SPORTS CLUB, INC.

55-1
217

PAY TO THE ORDER OF

DOLLARS

WEST ORANGE OFFICE
NATIONAL NEWARK & ESSEX BANK
WEST ORANGE, N. J.

:0217=0001: 0735=07584: "000 1000000"

EXHIBIT 3B

J 316

ONLY COPY AVAILABLE

172

OLYMPIC SPORTS CLUB, INC.

11/16 19 70 55-1/217

PAY TO THE ORDER OF CASH $ 7,250 00/100

SEVEN THOUSAND TWO HUNDRED FIFTY AND 00/100 DOLLARS

WEST ORANGE OFFICE
NATIONAL NEWARK & ESSEX BANK
WEST ORANGE, N. J.

ST. MAARTEN ISLE ⑆0217⑆0001⑆ 0735⑈07584⑈ ⑈0000725000⑈

EXHIBIT 3C

J 317

.ONLY COPY AVAILABLE

OLYMPIC SPORTS CLUB, INC.

178

55-1
217

PAY TO THE ORDER OF

$

DOLLARS

WEST ORANGE OFFICE
NATIONAL NEWARK & ESSEX BANK
WEST ORANGE, N. J.

Barbara Lander

⑆021700016⑆ 0735-07584 ⑈000150000⑈

EXHIBIT 3D

J 318

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196

OLYMPIC SPORTS CLUB, INC.

1/6 19 71 55-1/217

PAY TO THE ORDER OF ST. MAARTEN ISLE HOTEL CASINO $ 15,000 00/100

FIFTEEN THOUSAND AND ——— CO/100 DOLLARS

WEST ORANGE OFFICE
NATIONAL NEWARK & ESSEX BANK
WEST ORANGE, N. J.

⑆021700001⑆ 0735-07584 ⑈000150000⑈

EXHIBIT 3E

J 319

ONLY COPY AVAILABLE

OLYMPIC SPORTS CLUB, INC.

~~195~~ 197

12/31 19 70 55-1 / 217

PAY TO THE ORDER OF ST. MAARTEN ISLE HOTEL CASINO $ 25,000.00

TWENTY FIVE THOUSAND AND ——— —— —— —

J 320

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OLYMPIC SPORTS CLUB, INC.

198

55-1
217

PAID
NATIONAL NEWARK & ESSEX BANK
JAN 21 1971
NEWARK, NEW JERSEY

PAY TO THE ORDER OF

$

DOLLARS

WEST ORANGE OFFICE
NATIONAL NEWARK & ESSEX BANK
WEST ORANGE, N. J.

⑆021700016⑆ 0735-07581⑈ ⑈0001270000⑈

EXHIBIT 36

J 321

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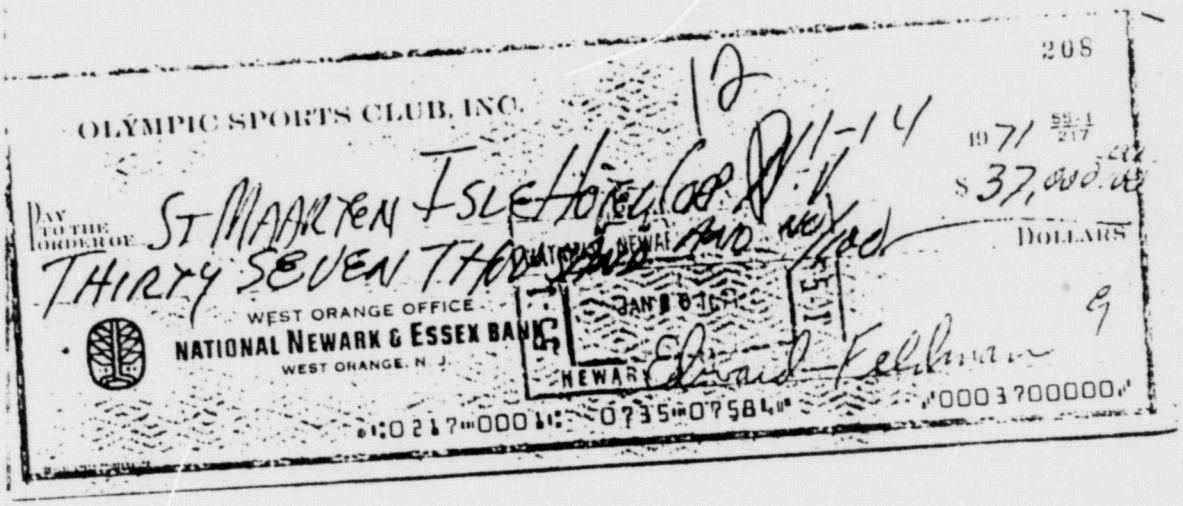

EXHIBIT 3H

J 322

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	73 Cr. 750
- against -	:	SUPPLEMENTAL AFFIDAVIT IN SUPPORT OF MOTION FOR A NEW TRIAL, OR, IN THE ALTERNATIVE, FOR A HEARING
MILTON PARNESS and BARBARA PARNESS, Defendants.	:	

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

MICHAEL ROSEN, being duly sworn, deposes and says:

1. I am a member of the firm of Saxe, Bacon, Bolan & Manley, attorneys for the defendants, and submit this supplemental affidavit in support of defendants' motions for a new trial, or, in the alternative, for a hearing.

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2. On January 25, 1975 Mr. Parness undertook a polygraph examination which was administered by James W. Keefe, President and Founder of the Truth Verification Corporation, located at 130 West 42nd Street, New York, New York. A copy of Mr. Keefe's report is attached hereto as Exhibit 1. The report, which is self explanatory, reveals that Mr. Parness told the truth when he responded to the questions designated in said report.

3. I have been informed that James W. Keefe retired from the United States Army as a Captain in August, 1968. During his career in the Army, he was an accredited investigator with the Criminal Investigation Division (C.I.D.) and was a certified polygraph examiner. While stationed in France, he was a chief polygraph examiner for the United States Army. For six months subsequent to his retirement from military service, he was employ

as a polygraph examiner and assistant to the Director of Security of Dart Drug Company, a major drug chain in the Washington, D.C. area. Since the beginning of 1969, Mr. Keefe has been employed as a polygraph examiner in the New York City area. From January, 1970 to the present, he has been the President of the Truth Verification Corporation, 130 West 42nd Street, New York, New York. In his capacity as a polygraph examiner, he has conducted many polygraph examinations for both prosecuting attorneys and defense attorneys in various levels of government, and criminal and pre-employment examinations for firms in extremely sensitive areas. During his career as a polygraph examiner, Mr. Keefe has performed thousands of polygraph examinations from pre-employment examinations to major criminal cases. Mr. Keefe has testified for the government in various federal courts, both military and non-military, throughout the country, including the Southern District of New York.

ONLY COPY AVAILABLE

4. It is respectfully submitted that the results of this procedure lend additional basis for the Court's granting the requested relief. As counsel for the defendants, we advise the Court and the United States Attorney that we are prepared to make Mr. Furness available to the government in any manner which they customarily use for truth verification, including, but not limited to, interrogation under oath, examination by government polygraph operators. The only condition attached thereto is that the government stipulate that the results of any polygraph examination be made known to the Court and be made part of any hearing, if ordered.

5. The search for the truth is an unending adventure, and perhaps the government would be desirous of joining in such a search.

WHEREFORE, it is respectfully requested that the defendants' motions be granted in all respects.

Michael Rosen
MICHAEL ROSEN

Sworn to before me this
28th day of January, 1975.

J 324

TRUTH VERIFICATION
CORPORATION
130 WEST 42nd STREET, NEW YORK, N.Y. 10036
(212) 239-8060

Case File #5280/75

January 27, 1975

Roy M. Cohn, Attorney at Law
Michael Rosen, Attorney at Law

Gentlemen:

At your request, Milton Parness was interviewed and given a polygraph examination at our office in New York City on January 25, 1975.

PURPOSE:

As a result of a Federal trial, Milton Parness and Barbara Parness were found guilty on two counts of causing Interstate Transportation of Stolen Property and one count of causing a person to travel on interstate commerce in furtherance of a scheme to defraud. Further, Milton Parness was found guilty of acquiring an enterprise through a pattern of racketeering activity. The case was appealed through the United States Court of Appeals and on June 27, 1974 the decision was rendered confirming the original sentences.

During the trial, it was inferred that the money that Milton Parness utilized ($160,000.00) to loan to Allan Goberman, a majority stock holder of Hotel Corporation was money that Milton Parness had obtained by collecting "gambling markers". It was alleged by Allan Goberman, during the trial, that Milton Parness had "gambling markers" to collect in the amount of $400,000.00. Allan Goberman inferred that the $160,000.00 that Milton Parness had loaned to him was part of the alleged $400,000.00 in "uncollected markers" that Milton Parness had collected previously. Milton Parness had repeatedly denied this and newly uncovered evidence indicated that Allan Goberman may have perjured himself in the trial.

This interview and examination were requested to determine if Milton Parness told the truth when he stated that no portion of the $160,000.00 that he had loaned to Allan Goberman was money that was collected from "gambling markers" or owed to Hotel Corporation, Allan Goberman, or the casino at St. Maarten.

RESULTS:

Milton Parness is 56 years old, married, and has three children. His date of birth is April 25, 1918. His Social Security number is 154-10-2671. He resides at 24 East Korwel Circle, West Orange, N.J.

During the interview, Parness stated that none of the $160,000.00 that he loaned to Allan Goberman was money previously collected from "gambling markers". He stated that the $160,000.00 was not due to Hotel Corporation, Allan Goberman, or St. Maarten's Casino. He then stated that he has never withheld any money due to Hotel Corporation, Allan Goberman, or St. Maarten's Casino.

EXHIBIT 4

J 325

Case File #5280/75

Roy M. Cohn, Attorney at Law
Michael Rosen, Attorney at Law

The following questions were asked of Milton Parness during the polygraph examination, and it was the opinion of the examiner that Milton Parness told the truth when he answered the following questions as listed below.

Was the source of that $160,000.00 other than money owed to Allan Goberman? Answer: Yes.

Was the source of that $160,000.00 other than money owed to the Hotel Corporation? Answer: Yes.

Was the source of that $160,000.00 other than money owed to the Casino at St. Maarten? Answer: Yes.

Was any portion of that $160,000.00 due to Hotel Corporation? Answer: No.

Was any portion of that $160,000.00 due to Allan Goberman? Answer: No.

Was any portion of that $160,000.00 due to the Casino at St. Maarten? Answer: No.

Was any of that $160,000.00 that you loaned to Allan Goberman money you collected from "gambling markers" for Allan Goberman? Answer: No.

Did you ever withhold any money due to Hotel Corporation? Answer: No.

Did you ever withhold any money due to Allan Goberman? Answer: No.

Did you ever withhold any money due to the Casino at St. Maarten? Answer: No.

Sincerely,

James W. Keefe

J 326

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA : 73 Cr. 750 (DNB)

- against - : SECOND SUPPLEMENTAL AFFIDAVIT IN SUPPORT

MILTON PARNESS and BARBARA PARNESS, : OF MOTION FOR A NEW TRIAL

Defendants. :

----------X

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

MICHAEL ROSEN, being duly sworn, deposes and says:

1. I am a member of the firm of Saxe, Bacon, Bolan & Manley, attorneys for the defendants. I make this affidavit further in support of the defendants' motion for a new trial.

2. By notice of motion dated January 22, 1975, the defendants herein moved pursuant to Rule 33 of Federal Rules of Criminal Procedure for a new trial based on the fact that certain newly discovered evidence revealed the prosecution's chief witness committed perjury as to several material matters; that the prosecution had either negligently or intentionally suppressed evidence favorable to the defense; and that the prosecution wilfully failed to advise the Court and defense counsel that perjured testimony was being offered.

3. It will be remembered that prior to the trial of this action, the defense moved inter alia for an order directing the United States Attorney to turn over to the defendants all exculpatory matter (18 a - 27 a).* Upon information and belief, no such exculpatory matter was turned over at any time.

4. On February 24, 1975, following the submission of the instant application, additional information came to the attention of the defense which further mandates a new trial. Specifically, on February 24, 1975, Allan N. Goberman, the prosecution's chief

*References in parentheses bearing the suffix "a" refer to the defendants' Appendix submitted to the United States Court of Appeals.

witness, represented to the United States District Court for the District of New Jersey that the United States government had in substance promised him that they would recover and return to him the Hotel-Casino in St. Maarten. (Transcript of proceedings in the United States District Court, District of New Jersey, dated 2/24/75, p. 17).*

5. The failure of the government to inform the Court and defense counsel of this promise as now asserted by Mr. Goberman, violated the defendants' right to due process of law under the Fifth Amendment to the Constitution of the United States, and deprived them of a fair trial. In Brady v. Maryland, 373 U.S. 83 (1963), the Supreme Court of the United States specifically recognized the defendants' right to such evidence. Speaking for the Court, Mr. Justice Douglas held:

> "...We now hold that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith of the prosecution." (373 U.S. et 87.)

6. In Giles v. Maryland 386 U.S. 66, 76, the Supreme Court extended the teaching of Brady "to all evidence admissible and useful to the defense"; this included evidence used to impeach a witness' credibility (386 U.S. 66 et 76). See also, U.S. v. Poole, 379 F.2d 645, (7th Cir., 1967) and U.S. v. Miller, 411 F.2d 825 (2nd Cir., 1969).

7. In the instant case, the fact that there may have been a quid-pro-quo for Mr. Goberman's testimony, to wit: the return of his Hotel; was not only favorable to the defense, but highly probative on the issue of Mr. Goberman's reliability and credibility as a witness. There is no question that had the defense been apprised of Mr. Goberman's understanding with the prosecution, a wholly different tack would have been taken during the course of the witnesses' cross-examination.

*A copy of the entire transcript of the proceedings of February 24, 1975, is annexed hereto as defendants' Exhibit 1.

8. Moreover, a perusal of Mr. Goberman's direct and cross-examination reveals that although he was questioned at length on any understanding he had with the prosecution, neither he nor the prosecutors revealed the above-described promise (259a through 279a, 540a, 582a). In this connection, the United States Supreme Court, in Giglio v. U.S., 405 U.S. 150, 92 Sup. Ct. 763, held that the failure of the government to inform the Court and counsel of prosecutorial promises made in return for testimony, when questions had been specifically asked by the defense regarding said promises, violated the rudimentary demands of justice.

9. Citing with approval the American Bar Association Project For Standards on Criminal Justice, Prosecution Functions, and The Defense Function (§3.11(a)), the Court held that the reliability of a given witness may well be determinative of guilt or innocence. Therefore, non-disclosure of evidence affecting that credibility fell within the general rule first enunciated in Brady v. Maryland.

10. For all of the above reasons and the reasons stated in defendants' initial affidavit and first supplementary affidavit, the judgment of conviction should be set aside and a new trial ordered.

Michael Rosen
MICHAEL ROSEN

Sworn to this 28th
day of February, 1975

ANN TURCHIANO
Notary Public, State of New York
No. 31-4640
Qualified in Queens County
Commission Expires March 30, 19[illegible]

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 74-182

ALLAN N. GOBERMAN,
Plaintiff,
vs.
MILTON PARNESS, et al,
Defendant.

MOTION

February 24, 1975

Dorothy L. Moore 2/25/75

BEFORE:

THE HONORABLE H. CURTIS MEANOR

APPEARANCES:

ALLAN N. GOBERMAN,
pro se - Plaintiff.

MICHAEL ROSEN, ESQ.,
For Defendant.

EXHIBIT 1

THE COURT: Mr. Goberman, why don't you retain counsel in this case?

MR. GOBERMAN: I don't have the funds to do so.

THE COURT: Couldn't you get someone to take this on a contingency basis?

MR. GOBERMAN: I tried.

THE COURT: Mr. Goberman, there is no doubt about the fact that you are an intelligent literate layman.

I've read your papers and you have a theory of the case and you have a grasp of the issues and the situation and you certainly have a right to appear per se. No one wants to deprive you of that right.

On the other hand, the case is somewhat complicated and it is novel in the sense that, I think this is the first civil action on the statute that I know of.

MR. ROSEN: Well, there was one other I think, against Mr. Vesco out in California but I think that was terminated.

THE COURT: Has it been reported?

MR. ROSEN: Yes, it's been reported but I think it was dismissed on venue grounds.

THE COURT: Well, then, it wouldn't help me on the merits.

MR. ROSEN: This is the furthest that anyone has gone with it.

THE COURT: And even though you are quite capable as a layman, I think from my reading of these papers, perhaps this is a little bit beyond your layman's grasp. I don't mean to deprecate your intelligence or anything but I think if you could get able Counsel in this case, it would certainly pay dividends in the presentation of the matter.

MR. GOBERMAN: I appreciate what you are telling me.

THE COURT: I'm trying to help you.

MR. GOBERMAN: I appreciate that. I realize that I am in very deep water and possibly over my head.

I did attempt to retain Counsel on a contingency basis and the best I could do was the fact that they wanted a $2,000 retainer.

THE COURT: On advance for expenses, wasn't it?

MR. GOBERMAN: That's right. And, of course, that's impossible.

THE COURT: The contingency fee arrangement does contemplate that regardless of the outcome, the litigant will bear the expenses of litigation. That is, the costs of depositions, lawyers out-of-pocket, travel, filing fees, et cetera, the costs of reproduction of documents and things like that.

It is not unethical, as I understand it, for a lawyer to advance those expenses during the course of litigation provided it is clearly understood that the client remains liable for them. I think if you can, I would advise to you to renew, as vigorously as possible, your efforts to retain counsel.

I don't care where you get a lawyer. I prefer, for ease of administration of this litigation, that you get a lawyer from this geographical area, but I would settle for a lawyer from anywhere as long as he is capable.

MR. GOBERMAN: I can't get a lawyer, because I can't pay them. It's just impossible.

THE COURT: If you can't, you can't.

Mr. Goberman, I'll hear you on your motion for summary judgment.

MR. GOBERMAN: I believe, at the time,

where we stand is I've asked for a summary judgment against Mr. and Mrs. Parness.

I base this under the civil remedies Section 1964-D.

I've done the best I could to research the facts in our local courthouse in Lancaster, Pennsylvania.

THE COURT: Let me stop you right there.

As I understand it, -- let me get the facts out. You had a controlling interest, 90 per cent, in a hotel in St. Marinique in the Caribbean.

MR. GOBERMAN: That's correct, sir.

THE COURT: Mr. Parness was, for want of a better description, a travel agent and he arranged for junkets of gamblers to travel to St. Martin and to stay and to gamble at the hotel.

MR. GOBERMAN: Yes, sir.

THE COURT: The details aren't important. Mr. Parness was to get certain reimbursement from you, payment from you, for arranging these affairs.

One of the obligations of Mr. Parness

was to collect, in the United States, monies the gamblers owed for gambling at your casino. Correct?

MR. GOBERMAN: Yes.

THE COURT: And when a gambler would run up a tab down there, he would sign what is called a marker indicating a debt owed and Mr. Parness would receive these markers from you and would attempt to collect them for what-- a 10 per cent fee?

MR. GOBERMAN: No, sir.

THE COURT: What was his fee on collection?

MR. GOBERMAN: He wasn't receiving markers from me. He was -- in addition to acting as a travel agent, he was operating the casino. He was running the casino. While I had the license in my name, he had complete control of everything that was going on there. He handled the money, he handled everything in the casino. He handled the casino.

THE COURT: What did you do, lease the casino to him.

MR. GOBERMAN: No, sir. I didn't lease the casino. Under the --

THE COURT: I didn't understand that he was running the casino. I know he had an interest in the profit from the casino.

MR. ROSEN: Your Honor, let me explain. Those aren't the facts.

THE COURT: Well, we'll take his facts. These are a little bit new to me.

MR. GOBERMAN: I was a 90 per cent owner of the Hotel Corporation. I built the hotel. My background is one of a builder.

THE COURT: I understand that.

MR. GOBERMAN: I built this hotel for other people who didn't pay the bill and I had to take it over.

So, I had a hotel and a casino which I knew nothing about, about either phase of the operation. But, I had indebted myself in the amount of $4,000,000 personally, and I had to continue operating this hotel and the casino.

Under the Netherlands Antilles, a corporation cannot hold a license in a casino. A license has to be in the name of an individual. In this case, they put the license in my name.

It became apparent, after a short space of operation, that it would be necessary to

bring people to the hotel to make use of the casino because, in my opinion, at that time, that's where the major part of the total income, the cash flow, would come from the casino operation and not from the hotel operation per se because that was a holiday resort that possibly would operate in the black for 3 or 4 months out of the year.

I was introduced to a party by the name of Frankie Ferrarra by the senator of the island. The senator of the island is tantamount to being governor. He introduced Mr. Ferrarra to me with the understanding that Mr. Ferrarra would be helpful to me in operating the casino. It was through Mr. Ferrarra that I met Mr. Parness. Mr. Parness stepped in and took Mr. Ferrarra's position.

THE COURT: What was your arrangement with Parness? How did Parness pay you for the use of the casino?

MR. GOBERMAN: He didn't pay me for the use of the casino.

THE COURT: How was he supposed to pay you?

MR. GOBERMAN: Out of the profits of the operation of the casino and the collections.

The heart of the whole situation was collecting the money.

THE COURT: Right.

MR. GOBERMAN: He was responsible to collect that money.

THE COURT: You weren't supposed to get paid until he collected it?

MR. GOBERMAN: I didn't get any money from him if he didn't collect it in the States.

However, there was a certain amount of the money that was paid at St. Martin when the gamblers or parties left.

THE COURT: They paid cash.

MR. GOBERMAN: Yes, sir.

But, I think if we go much further, your Honor, we're getting into the case of the government versus Parness, if this is what you want to discuss here.

THE COURT: Who hired the help down there? Who paid the payroll of the help; the croupiers and the waitresses and the casino help and whatever other help you had?

MR. GOBERMAN: I originally -- let me

say this, your Honor. After Mr. Parness was in there for a short time, he pushed me out.

THE COURT: How long did you operate in this arrangement with Parness? How long was the casino operated?

MR. GOBERMAN: I think he was there for about a year. I'm not sure.

THE COURT: All right. In any event, you had some kind of an arrangement with Parness for sharing the profits of this casino?

MR. GOBERMAN: No, sir. Mr. Parness was supposed to become a partner of mine and he was supposed to invest a large sum of money. I felt that this would be a good arrangement but he never came up with the money and we never became partners.

This wasn't necessary because he literally pushed me out and took over and I've -- I was just pushed out of the operation.

THE COURT: Well, in any event, if I understand it, Parness was holding money, according to you?

MR. GOBERMAN: That's right, sir.

THE COURT: That he should have paid to you and did not and that thereafter your casino

got into financial difficulties and Parness lent you something like $150 or $160,000?

MR. GOBERMAN: No, sir.

Parness introduced me to --

THE COURT: All right. Parness introduced you to someone else but this someone else was allegedly an undisclosed agent for Parness in the loaning of the money?

MR. GOBERMAN: No, sir. This goes back a little further.

I borrowed $150,000 from a party who was supposed to place a second mortgage of 3 and 1/2 million dollars. He had, at that time, a keen interest in operations in the Caribbean. We went back and forth on preliminary contracts until it got to the point where, I felt, if this party was really interested, he should come up with some good faith money. We agreed that he would lend me personally, $150,000.

THE COURT: When that transaction came due --

MR. GOBERMAN: When that came due --

THE COURT: Then, you went to Parness?

MR. GOBERMAN: Yes, sir. I asked

Parness for the money that he had supposedly collected so I could pay the note off.

THE COURT: And that's when you got in trouble?

MR. GOBERMAN: That's when we got in trouble.

THE COURT: Regardless of the background, ultimately, you did borrow $150,000, as I understand it, from Milton Parness.

MR. GOBERMAN: Yes, sir.

THE COURT: And your claim is that Parness was, in effect, lending you your money.

MR. GOBERMAN: Yes, sir.

THE COURT: Because he mislead you as to the extent of the collections on those markers?

MR. GOBERMAN: Yes, sir.

THE COURT: You pledged your stock in the casino as security for this loan, and you could not pay it back and you lost your casino to Parness?

MR. GOBERMAN: Yes, sir, -- the hotel.

THE COURT: All right, the hotel. Then Parness and his wife were indicted in Southern District.

MR. GOBERMAN: Yes, sir.

THE COURT: Parness was indicted under what is called the Racketeering Influence and Corrupt Organizations Act, 18U.P.S. Section 1961, et cetera.

He was convicted under this act. His wife was not. His wife was convicted of what -- transferring -- interstate transporation of stolen property and causing you to travel in interstate commerce in furtherance of a scheme to defraud under 18 United State Code, Section 2314. Correct?

MR. GOBERMAN: Yes, sir.

THE COURT: Now, this act under which Section 1961, et cetera, under which Milton Parness was convicted provides for certain civil remedies in Section 1964. It provides for a forfeiture of the ill gotten gains; the casino, the hotel -- I presume the government has the hotel or took it? Has the government taken the hotel.

MR. GOBERMAN: Yes, sir.

THE COURT: You filed under Section C of 18 U.S.C. of Section 1964 which says, "Any person injured in his business or property

by reason of a violation of Section 1962 of this Chapter may sue therefore in any appropriate United States District Court and shall recover 3 fold the damages he sustains, the cost of the suit, including a reasonable attorney's fee."

That's what you sued under?

MR. GOBERMAN: Yes, sir.

THE COURT: And you seek to recover triple damages for the value of your loss, i.e. the value of your stock in the casino?

MR. GOBERMAN: Yes, sir.

THE COURT: And, you use as evidence, Parness' conviction which is provided for under Section D of 18 U.S.C. Section 1964, a final judgment or degree rendered in favor of the United States in any criminal proceeding brought by the United States under this Chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

I'll tell you right now, Mr. Goberman, you are not entitled to utilization of Subsection B which I have just read. That

subsection very plainly provides that, the evidence of conviction is conclusive only where a civil proceeding is brought by the United States government and not by a citizen such as yourself.

You understand me?

MR. GOBERMAN: Yes, sir.

THE COURT: I think the criminal conviction of Milton Parness would certainly be evidentiary in any civil proceeding that you bring. There are new rules of Federal evidence and they are going to be in effect in a few months, and they certainly will be in effect when this case is tried and you will be entitled to use the criminal conviction as evidence of any fact which is essential to Parness' conviction, but I don't think it will be conclusive. I think that's a legal issue that a lawyer might very well help you on as whether that conviction is conclusive in your behalf or whether Parness, as against it, may contest the essential facts of such a conviction.

Do you follow me?

MR. GOBERMAN: Yes, sir.

THE COURT: You also bring an action under this statute against Mrs. Parness but Barbara Parness was never convicted under the racketeering statute so you cannot use the racketeering statute to recover triple damages from her.

As to her, your course of action maybe entirely different as to her, her conviction of transporting stolen property, i.e., your money, in the form of certain banker's or cashier's checks and in interstate commerce and causing you to travel in furtherance of the scheme to defraud, may be evidential against her.

There's another question as to whether you can prove, as the government did not, in the Southern District, although, the government didn't try to, that Barbara was a part of this scheme. There is a good legal question as to whether your right of action against Barbara can arise under this anti-racketeering statute in the absence of a conviction under that act on her part. That's an arguable question, and, again, one on which a lawyer can help you. Do you understand me?

MR. GOBERMAN: Yes, sir.

THE COURT: So, I think we've set forth-- laid down the issues and I have a sufficient understanding of the case as you amended the facts which weren't too clear to me. I had the idea, frankly, that you were still running the casino and Parness was arranging junkets for a certain percentage of the profit of the casino run by you, and that he was getting a collector's fee on the markers but you changed it around a little bit to say that he was, in fact, running the casino and he was supposed to pay you for the use thereof and pay you out of collections he achieved.

I don't think that difference in the facts, as I understood the case originally from what you tell me today is material at all to the issues that I have now.

MR. GOBERMAN: The reason why your Honor, I brought my claim under Section 1964D, and I may be, as you explained it, wrong is the fact that the United States government was supposed to have sued for the recovery under that act and to have recovered the hotel and returned it to me, and I'm trying to put myself

in their position.

THE COURT: Well, the hotel is forfeited --

MR. ROSEN: No, sir. The government of the Netherlands Antilles has the hotel and not the government of the United States. The government of the United States has no right to tell the government of the Netherlands Antilles what to do with their property. The government of the Netherlands Antilles took away the hotel because of Mr. Goberman's handling of the matter and they own it.

THE COURT: Did the United States government ever try to seize the hotel or ever seize Parness' interest in the hotel?

MR. ROSEN: Never.

THE COURT: Not until this day?

MR. ROSEN: They can't. Because the government of the Netherland Antilles has it and it's been foreclosed.

THE COURT: Under what grounds?

MR. ROSEN: On the grounds that Mr. Goberman owed them 1 million and 1/2 dollars. But, I don't think we have to worry about that.

MR. GOBERMAN: I think we have to

worry about the truth.

THE COURT: When you say the government, which government are we talking about.

MR. GOBERMAN: We're talking about the United States government.

THE COURT: That's not before me now. My point is that this is the reason why I think I'm very clear on the matter of Subsection D. That is only available as a conclusive if a prior conviction is only available conclusively to the government of the United States. It is not available to you as a private civil litigant, and I don't think, offhand, the conviction of Mrs. Parness of that criminal conviction but I think it's a significant legal issue on which a lawyer could help you.

I might point out to you that these forfeitures such as mentioned in Section 1963 speak of the following as civil actions to criminal cases and it's normal practice to treat the criminal motions and motions for forfeiture as conclusive when a government after conviction of possession of narcotics or stolen vehicles, make a motion for forfeiture

you treat them as conclusive and that's what the statute is intended to provide. It doesn't mean, in my judgment, that it is conclusive as a private citizen and I don't think you should rely on that to establish anything more than a prima facia case. I don't think you can rely on this motion for some rejudgment as to Barbara -- what do you want, joint actions?

MR. ROSEN: Your Honor, may I be heard at this point on my motion?

THE COURT: Go ahead.

MR. ROSEN: Before I begin, I want to say, your Honor, that I am not taking advantage of the fact that Mr. Goberman does not have a lawyer even though he certainly can afford one.

THE COURT: Is Mr. Parness in custody now?

MR. ROSEN: No.

THE COURT: When is he supposed to surrender himself?

MR. ROSEN: The United States Attorney has not sent out the order but I believe that he is to surrender himself March 3rd. I believe the United States Attorney has consented to put off, to the extent, based on the

information that I've been able to come up with and given to the United States Attorney which will clearly show that Mr. Goberman is a perjurer and a new trial should be granted.

THE COURT: Let's not get into that.

MR. ROSEN: We're not going to get into it but in answer to your Honor's question, the United States Attorney has agreed to hold up any surrender now and I've furnished him with extensive papers based on the depositions in this case.

Judge, now as to Mrs. Parness, I ask that the complaint be dismissed..

THE COURT: Why?

MR. ROSEN: On the grounds that she was not convicted of any 1961 crime and unless she was convicted of 1961 crime, the statue doesn't apply.

THE COURT: I'm not so sure of that.

MR. ROSEN: I most respectfully recognize that this is a case of first impression and we don't have much pressing to go on.

THE COURT: Suppose Mr. Goberman can bring Barbara's activity within Section 1961-62

even though she wasn't convicted, wouldn't the cause of the action lie under 1964 as to her?

MR. ROSEN: No, sir.

THE COURT: Why not?

MR. ROSEN: I think the statute itself which is 1961, et cetera, would have to show that two indictable acts had to have been committed within the 10 year period and the proceeds of which went into the purchase of an entity in interstate commerce.

Now, that couldn't be accomplished because the United States government in its Bill of Particulars --

THE COURT: Well, how do you get the requirement of conviction out of this language.

MR. ROSEN: I don't get the requirement of conviction, most respectfully, it's the acts that are important and here the government has specified in its Bill of Particulars that she is not charged with any such crime or any such act.

Now, unless Mr. Goberman wants to say that the government didn't indict Barbara because they are nice people --

THE COURT: Is he bound for purposes

of this section by the government's allegations?

MR. ROSEN: If he can prove that Mrs. Parness duplicated the acts of Mr. Parness-- but I say, to your Honor, that the facts as proven at trial, by his own sworn testimony, it just couldn't happen.

THE COURT: How about her as an aider and abetter of Milton's scheme with these checks and interstate commerce and so on and so forth.

MR. ROSEN: Well, your Honor, that is still not a 1961, it's a 2341 et cetera crime that was aiding and abetting and it had nothing to do with the racketeering activity of which the civil remedies apply.

I'm not concerned whether your Honor dismisses Count One at this point or the complaint against Mrs. Parness.

For the record, I'm asking for it and I think it is clear that it is not covered by either the conviction or the statute and since we are dealing with the case at first impression, I'd like to make all the available motions at the right time.

THE COURT: I understand.

MR. ROSEN: And, as to Mr. Parness, I think the indictment -- the complaint not only should be dismissed by in the alternative, if your Honor could not grant that type of relief, a summary judgment must be given to Mr. Parness at this juncture.

THE COURT: Why?

MR. ROSEN: Your Honor, even under collateral estoppel arguments, you do not have the same set of facts as you had in the criminal case which Mr. Doberman is using. That's the only thing he is using. He is saying this act, Section 1964-C or any other subdivision gives him the right to come into this court. He is not suing on the grounds of common law fraud or anything else.

THE COURT: I know.

MR. ROSEN: He is solely invoking this statute. Now, if I can establish to your Honor's satisfaction that the facts in the criminal case are not at all the same as the facts in the civil case, he cannot even use collateral estoppel. We know the parties are the same, but if the facts are different and there is one major factual distinction and I

think it is something which now troubling the United States Attorney and that is that Mr. Parness allegedly withheld receipts owed to Hotel Corporation.

THE COURT: Right.

MR. ROSEN: Now, Mr. Goberman comes forward and says no, and I think I've cited all of the papers to your Honor. Under oath, he now says the Hotel Corporation wasn't owed a nickel of this money. He says, "I was owed the money." Well, I say to you, most humbly, your Honor, as a former prosecutor and as an attorney, how could a man then be convicted legally of owing somebody else money. How could Mr. Parness be convicted of owing Hotel Corporation money if Mr. Goberman now says he never owed it to the Hotel Corporation.

I'd say he cannot use this now even as a collateral estoppel. The issues are different. Now the issue is does Mr. Parness owe Mr. Goberman $650,000 times 3 equals $14,000,000, or whatever he is suing for.

Now, the facts are not the same. I didn't draw the indictment and I did not draw Mr. Goberman's complaint. Other people made

the allegations and they are not the same, but even more than that, your Honor, there is another major reason why Mr. Goberman is not entitled or more respectfully, Mr. Parness is entitled to some rejudgment or to a dismissal of the complaint.

In sworn testimony in this action, there can be no question that not only does Mr.Parness owe Mr. Goberman nothing, not a cent, but, in fact and in truth, Mr. Goberman owes Mr.Parness money. Now, that came out in 2 or 3 depositions which I have available to the Court.

THE COURT: They're not filed.

MR. ROSEN: I understand that. I haven't had them signed. This is the first time I've seen Mr. Goberman since the last deposition.

THE COURT: Couldn't you waive the signing of the depositions?

MR. ROSEN: I usually do, but in this case, when he is not represented by counsel, I don't want to waive anything.

There, Mr. Goberman acknowledges over and over again, Number 1, that he can't

substantiate the $650,000 he is complaining in this complaint but more over, all the monies that were allegedly collected by Mr. Parness, the depositions reveal that hundreds of thousands of dollars were sent to Mr. Goberman. He acknowledges receiving the checks.

THE COURT: I don't see how you could rely on this motion on this depositions that haven't been filed and the reading of which I have therefore been denied.

MR. ROSEN: Your Honor, I represent as an officer of the court and I set forth extensively in my papers those portions of the depositions. I haven't changed them in any way. I am prepared to file them as soon as I can get the man to sign them.

THE COURT: I don't think I ought to rely on them until they are filed.

MR. ROSEN: I agree with your Honor.

THE COURT: I don't think it's an unreasonable request on my part.

MR. ROSEN: No, certainly not.

What the current status of all this is that a motion has been made and, again, I haven't spoken to your Honor's law clerk, but

I was thinking of doing -- we are held up, I think pursuing this matter until the United States Supreme Court rules on the legal issues presented today.

Now, a motion has been made back to Judge for a new trial based on what we claim is a recantation on the part of Mr. Goberman and evidence of his perjurious testimony coupled with a lie detector test given to Mr. Parness which he passed.

Now, I don't know if your Honor is interested in again holding up but I would ask only one thing. If your Honor is going to deny this dismissal of the complaint or deny the summary judgment, I would ask that we have a hearing before then. I think it is important for this Court to ascertain even at this point, your Honor would be satisfied that not a penny is owed to Mr. Goberman by Mr. Parness, and you would have to grant some kind of judgment.

THE COURT: But, I have a conviction. Hold it. Now wait. You have a motioned to set aside the conviction. The conviction was predicated on an obligation of Hotel

Corporation. Right?

MR. ROSEN: Yes, sir, allegedly an obligation owed to Hotel Corporation.

THE COURT: Obligation owed to Hotel Corporation?

MR. ROSEN: The indictment says that Milton Parness owed Hotel Corporation $400,000.

THE COURT: And who was the borrower from Parness?

MR. ROSEN: I beg your pardon, sir?

THE COURT: Who was the borrower from Parness?

MR. ROSEN: Nobody.

THE COURT: Who borrowed the $150,000, who was the borrower?

MR. ROSEN: You mean who lent Mr. Coberman the $150,000?

THE COURT: He borrowed it personally, didn't he?

MR. ROSEN: He borrowed it from Leonard Holzer (phonetic) first and then he went to Mr. Parness and borrowed it from Mr. Parness.

THE COURT: Personally?

MR. ROSEN: Yes.

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THE COURT: Wasn't it a Hotel Corporation obligation?

MR. ROSEN: No, sir.

THE COURT: It was a Goberman individual operation?

MR. ROSEN: That's correct.

Now, I think your Honor --

THE COURT: What you are saying is that the criminal action of New York is predicated upon the proposition that Parness owes the Hotel Corporation X number of dollars?

MR. ROSEN: Correct.

THE COURT: And, wrongfully withheld disbursement of those dollars to Hotel Corporation. Taking the facts as set forth in the opinion of the second circuit, then, Goberman's hotel went in financial difficulty and Parness lent Goberman, personally, 150 or $150,000 for which Goberman pledged his 90 and 1/2 per cent interest in the hotel. The motivation for this transaction was to force Goberman to make the loan from Parness so that Parness could foreclose on the loan and he kept withholding the money from the hotel thus taking over the Hotel Corporation for $150,000.

right -- that's the theory of the second circuit's case?

MR. ROSEN: Yes, that's the theory of the indictment.

THE COURT: Now, Mr. Goberman has apparently sworn in the testimony given to this civil action that the money Farness owed was not owed to the Hotel Corporation, but was owed to him individually.

MR. ROSEN: Yes, sir.

THE COURT: I haven't seen those depositions and I don't know.

I think a lot of layman when they own or control a corporation tend not to separate the legal identities. I don't know whether that's the situation here or not.

MR. ROSEN: Judge, you are right. That is true when you are dealing with an ordinary person, but you are not dealing with an ordinary layman.

THE COURT: However, this complaint and that conviction in the second circuit court -- affirmed by the second circuit is now outstanding and of which I can take judicial notice?

MR. ROSEN: Definitely.

THE COURT: And which, until set aside, I have to consider as binding.

MR. ROSEN: Your Honor, I understand that. I point out the inconsistencies we have now and why we are entitled to some rejudgment. That is final. That's the final judgment of the United States Superior Court.

Now, Mr.Goberman comes in and says no. Mr. Parness never owed Hotel Corporation anything. He owed it to me. Now, either Mr. Goberman is owed the money personally or that conviction has to go out the window but I'm saying we are entitled to some rejudgment, at least, throwing out this case if Mr. Parness owed the money to Mr. Goberman. How could he owe it to the Hotel Corporation for which he stands convicted. He can't owe it to both, I most respectfully submit.

THE COURT: Maybe they were joint parties.

MR. ROSEN: Your Honor, I will file the depositions.

THE COURT: Wasn't there some kind of an arrangement where Parness was a sub-licensee

from Goberman either individually or he was a lessor of the casino?

MR. ROSEN: No.

THE COURT: I don't know, I haven't seen a document that purports to set forth the legal arrangement between Goberman and Parness of the utilization of the casino.

MR. ROSEN: That's why I asked -- the reason I asked -- your Honor looked a little bit puzzled when I ask for a hearing before your Honor makes a decision on the summary judgment. I think it is absolutely critical that we know what the facts are as of today.. They keep shifting. I'm not trying a Federal case.

THE COURT: Isn't Judge going to have a hearing.

MR. ROSEN: He has ordered the government to put in answering papers by the early part of next month. It should be in a week or so and everything is stayed there.

THE COURT: If he vacates the conviction, then, the underpinnings of this case go out the window.

MR. ROSEN: I believe it would.

THE COURT: As of now, I have the

opinion of the second circuit and I'm going to adhere to it and consider it as conclusive.

What's the story, Mr. Goberman? Who owed the money to whom?

MR. GOBERMAN: I think I could simplify that. I'm not changing any position. All the money -- as I said earlier, this success of the operation, of the hotel, depended on the income of the casino. When I said the money was owed to me at the casino, that money would go right through my hands to the Hotel Corporation in the next office.

THE COURT: What was your deal with Parness. He was supposed to pay who for what?

MR. GOBERMAN: I beg your pardon, your Honor?

THE COURT: Who was Parness supposed to pay and for what was he supposed to pay it.

MR. GOBERMAN: Parness -- the profit that was made, if any profit was made, it went through my account to the hotel account because we had to pay taxes to the government of the Netherlands Antilles.

THE COURT: What were you giving Parness as a share of the profits?

MR. GOBERMAN: Parness was working under him -- as anoth junketeer temporary until which time he came up with the amount of money he promised to come up with to become a partner in the entire operation which he never did, because instead of doing that, he pushed me out of the operation by --

THE COURT: You didn't answer my question. You had some kind of an arrangement with Parness.

MR. GOBERMAN: I'm sorry. The same arrangement we had with the other junketeers 10 per cent -- 10 per cent of the profits and $50 a head.

THE COURT: You held the license individually in your own name to run the gambling casino?

MR. GOBERMAN: Yes, sir.

THE COURT: The casino was, in fact, run on Hotel Corporation property?

MR. GOBERMAN: Yes, sir.

THE COURT: Whose employees ran the casino? Who paid them? You? The hotel or Parness?

MR. GOBERMAN: I pay them out of the

casino operation front until Parness came in and then he took over completely.

THE COURT: And he paid them?

MR. GOBERMAN: He took care of everything. He took the man that was working for me and took him under his wing.

THE COURT: Now, obviously Parness was using the hotel's property on which to run this casino then?

MR. GOBERMAN: Right. We were also feeding the boarding the people that come up in the junkets and if I couldn't get the money from Parness to pay the hotel --

THE COURT: See, this is why you need a lawyer because you fail to distinguish, for me at least, a difference of the legal identity between you individually and the Hotel Corporation.

MR. GOBERMAN: I beg your pardon, sir.

THE COURT: You fail to comprehend and distinguish, I think, the difference in legal identity between you as an individual and the Hotel Corporation.

You see, the Hotel Corporation is, in law, a separate entity, a separate person apart

from you.

MR. GOBERMAN: Yes, sir.

THE COURT: And I don't think you appreciate that.

MR. GOBERMAN: Yes, sir, I do appreciate that.

THE COURT: But you still didn't tell me with whom Parness' arrangement was. Was it with you individually or was it with the Hotel Corporation or with both?

MR. GOBERMAN: It was with both because he then took over the Hotel Corporation stock. He took everything away that I had and now we are rehashing the case.

THE COURT: All right, look, I read this complaint. I have the second circuit decision and I'm going to abide by it.

The theory of the criminal case in New York was that Parness aided by his wife, withheld money owed to the Hotel Corporation of which Goberman had a 90 per cent interest and that money was then lent to Goberman because the withholding put him in financial jeopardy.

Goberman apparently used it to try to keep his business going or to salvage his

business and the continued withholding of the money owed to Goberman, owed to the hotel by Parness rather led to the necessity for the loan and the holding of the money thereafter led to the inability to repay the loan by Goberman because he was getting no more money from the hotel and ergo he lost the stock he pledged as security for the loan.

This scheme by Parness, aided by his wife, to get for a small sum of $150,000 this rather expensive interest in the hotel. Now, that's what the civil complaint here basically says and I think it will stand your motion.

MR. ROSEN: Judge, I respectfully accept that and I don't think that -- I think your Honor was trying to read by argument. I'm only concerned with one thing. Is the truth of the fact that Mr. Parness owes Mr. Goberman the money or does he owe the legal entity the money?

THE COURT: I haven't seen the depositions and I don't know.

MR. ROSEN: I will file the depositions.

THE COURT: I have the second circuits opinion which stated as I stated that the money

was owed by Parness to the hotel and that since Goberman had 90 per cent of the hotel this put Goberman in financial trouble and he then borrowed what was in effect the Hotel Corporation's money and 90 per cent of which was theoretically his own from Parness. He owned 90 per cent of the Hotel Corporation. He owned 90 per cent of the hotel's assets. Right?

MR. ROSEN: Apparently, yes.

THE COURT: And this is in furtherance of a scheme to let Parness take over the hotel and get Goberman's 90 per cent for the relatively insignificant sum of $150,000.

Now, this is what the complaint is that Mr. Goberman has filed in handwritten form, I think, attempts to say. It's a short, brief thing but I think with notice pleading, it passes muster.

Your motion I can't grant. You can't get it against Barbara because she hasn't been convicted of this statute and the judgment as to Milton is not conclusive and we do have, apparently, a factual issue as to who the true debtor was and who the true creditor was on the

money that Parness owed -- whether it was you individually or the hotel and I can't make it out.

So, I'm denying all the motions and Mr. Goberman, you may well have a good case here. If that conviction in New York stands and Mr. Parness has some assets you may reach, you may have an excellent case, I don't know, but I can't urge you too strongly to get counsel.

Will you draw an order.

MR. ROSEN: Yes, I will -- denying all motions. Correct, your Honor?

THE COURT: Yes, denying all motions.

MR. ROSEN: Do you have an idea as to a trial date. Discovery is completed.

THE COURT: When was this filed?

THE CLERK: February 5.

THE COURT: February 5, the case is about a year old. You've got at least 6 months, probably longer between my calendar and the speedy trial act, criminal business, I think you have at least 6 months.

Do you have any discovery, Mr. Goberman?

MR. GOBERMAN: I beg your pardon,

your Honor?

THE COURT: Have you had any discovery—have you served Interrogatories, taken any depositions?

MR. GOBERMAN: No, he's taken depositions from me but I haven't.

MR. ROSEN: I would ask most respectfully that Mr. Goberman complete his discovery as soon as possible so that we can get on the trial calendar. I think it is important that we get an early trial date in this case.

THE COURT: I think you ought to complete your discoveries. How long do you contemplate discovery?

MR. ROSEN: I'm through -- I'm ready to go to trial tomorrow.

THE COURT: I wish I could accommodate you. It would be nice to get a case over that's a year old.

How long do you want to complete discovery?

MR. GOBERMAN: I've completed everything I could possibly do or have been able to do.

There is one thing that I was told to ask you to do by the Department of Justice and

that is I wanted to get a copy of the transcript.

THE COURT: By the way, there was a superseding indictment. We don't have a copy of that either.

MR. ROSEN: I furnished you with it.

THE COURT: Was it the superseding indictment? I think it was an original indictment.

MR. GOLDMAN: Your Honor, I want to get a copy of the transcript of the trial and I was told by the Justice Department that they would give it to me. When I apply for it, they told me I can't have it. The only way I can have it is if the Judge asks them for it. I think you will find everything that we're talking about is in there.

THE COURT: You certainly ought to have a copy of the transcript. There ought to be plenty of them around.

MR. ROSEN: I gave you a copy of the superseding indictment next to my moving papers.

THE COURT: Are you sure they were not the original indictment?

MR. ROSEN: When you say are you sure,

no I'm not sure but I have an "S" on it.

I'd like to know when Mr. Goberman talked to the Justice Department.

THE COURT: How did this go up to the second circuit, on a typewritten transcript?

MR. ROSEN: No, I did a whole printed record, I didn't print the entire record though because it was over a thousand pages.

THE COURT: Who has a copy of the original record?

MR. ROSEN: His friends, the United States Attorney's Office would have a copy.

THE COURT: Why won't they give you a copy of the testimony of the case United States vs. Parness.

MR. GOBERMAN: They will give me a copy if I pay for it.

THE COURT: Oh, sure.

MR. GOBERMAN: Well, that's it, I don't have the money to pay for it, it costs $750.

See, your Honor, my income is my Social Security check and that's all I have.

THE COST: If they have an extra copy around, I'm sure they'll give it to you.

MR. GOBERMAN: Well, that's where we

stand.

THE COURT: I'm sure that you can get a copy of it, it's a public record.

Mr. Goberman, I can't urge you too strongly to obtain counsel in this matter.

* * * * * * * *

CERTIFICATE

I, MARILYN GONZALEZ, a Shorthand Reporter and Notary Public of the State of New Jersey, certify that the aforegoing is a true and accurate transcript of my stenographic notes.

MARILYN GONZALEZ

J 373

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NOTICE OF ENTRY

Sir:-Please take notice that the within is a *(certified)* true copy of a duly entered in the office of the clerk of the within named court on 19

Dated,

Yours, etc.,

SAXE, BACON, BOLAN & MANLEY

Attorneys for

Office and Post Office Address

39 East 68th Street

NEW YORK, N. Y. 10021

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir:—Please take notice that an order

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court, at

on the day of 19

at M.

Dated,

Yours, etc.,

SAXE, BACON, BOLAN & MANLEY

Attorneys for

Office and Post Office Address

39 East 68th Street

NEW YORK, N. Y. 10021

To

Attorney(s) for

~~XXXXXX~~ Cr. 750 Year 19

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

MILTON PARNESS and BARBARA PARNESS

Defendants.

SECOND SUPPLEMENTAL AFFIDAVIT IN SUPPORT OF MOTION FOR A NEW TRIAL

SAXE, BACON, BOLAN & MANLEY

Attorneys for Defendants.

Office and Post Office Address, Telephone

39 East 68th Street

NEW YORK, N. Y. 10021

(212) 472-1400

To

Attorney(s) for

Service of a copy of the within ~~XXXXXXXXXX~~ is hereby admitted.

Dated,

Attorney(s) for

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USA (5)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA -v- MILTON PARNESS and BARBARA PARNESS, Defendants.	73 Cr. 750 AFFIDAVIT IN OPPOSITION TO DEFENDANTS' MOTION FOR A NEW TRIAL

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

JOEL M. ROSENTHAL, being duly sworn deposes and says:

1. I am an Assistant United States Attorney in the office of Paul J. Curran, United States Attorney for the Southern District of New York, and represent the Government on this motion for a new trial, based upon newly discovered evidence, brought by the defendants Milton and Barbara Parness pursuant to Rule 33 of the Federal Rules of Criminal Procedure. I make this affidavit in opposition to the defendants' motion.

2. The facts of this case are well known to the Court, and will not be repeated here. Statements of the facts of the case appear in the Court of Appeals opinion affirming the defendants' convictions, United States v. Parness, 503 F 2d 430 (1974), and in the Government's brief in that appeal (a copy of which has been annexed hereto as Exhibit A).

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3. Defendants contend that a new trial should be granted because of the alleged perjury of a government witness, Allan Goberman, discovered in a post-trial deposition, because of the existence of "evidence of material facts not heretofore presented," which they assert would probably produce a different verdict, and because of the claimed wilful failure of the Government to advise the court of allegedly perjured testimony, as well as the Government's alleged suppression of evidence ostensibly favorable to the defense. None of these claims has any merit which would require the granting of a new trial, nor is there a need for an evidentiary hearing to resolve them.

4. A review of the record and all the exhibits at trial reveals that the defendants are, in their motion, merely attempting to draw new conclusions, based upon the trial evidance, which they claim support their innocence. In fact, the evidence is not newly discovered but was elicited at trial, the conclusions the defendants would seek to argue based on the evidence were advanced at trial, and the record amply demonstrates that defense counsel were fully aware at trial of all the facts which they claim have only recently come to their attention.

5. Defendants' arguments are premised upon the erroneous belief that the Government's theory at trial was that the defendants had failed to remit to Goberman or the Casino the $400,000 in marker pick ups due the Casino. Upon this theory defendants stake their whole claim that the purportedly newly discovered evidence mandates a new trial. Accordingly, in their affidavits, defendants attempt to show

that the $400,000 in markers Goberman claimed Parness was responsible for remitting was actually a much smaller amount. Defendants propound three separate sets of "newly discovered" facts which they claim reduce Goberman's $400,000 figure to virtually nothing. The reduction is accomplished by the subtraction of three figures derived from these "new facts." They are:

(1) initial reduction of the $400,000 figure to $233,000 based upon simple addition of the gross marker collections reflected in Government's Exhibits 167-177;

(2) reduction of that $233,000 sum by about $90,000, to about $141,000, reflecting deductions from marker collections Parness was required to remit to the Casino, which deductions (for air fares and commissions) the defense claims to have learned about only recently; and,

(3) reduction of the $141,000 to $11,495 after subtracting $129,750, the amount of cash remitted by Parness' company (Olympic Sports Club, Inc.) to the Casino in December 1970 and January 1971, which the defense claims has only recently been conceded by Goberman to be a proper deduction from the gross pick up for which Parness was responsible.

(6) These contentions ignore the actual theory of the fraud as proven at trial, namely that Parness deprived Goberman of the money to which he was entitled from the Casino's earnings, with which he could have paid off the Landew-Amsterdam loan. Thus the critical issue was not whether Parness owed the Casino $50 or $500,000 from marker collections, or whether he had sent $130,000 to the Casino's checking account; the issue was whether Goberman was deprived of access to any cash Parness actually remitted to the Casino-Hotel at the crucial time. Indeed this was the theory argued

by Government counsel in summation. (Tr. 1646, 1649-50). At trial, Goberman's inability to reach the Casino's funds was amply demonstrated, as the trial record and Court of Appeals opinion reflect. Thus, the Court of Appeals wrote:

> "Because this money was still not forthcoming and allegedly because Goberman was denied access to other funds which Parness had remitted to Hotel Corp., he was unable to repay [the Landew-Amsterdam loan]."
> 503 F. 2d at 435.

Nothing contained in defendant's moving papers indicates that Goberman's testimony and the other evidence of the inaccessibility of the Casino's funds has been even slightly contradicted. On this basis alone, defendant's motion must be denied, for even if this were new evidence, no new outcome could conceivably result.

7. Nevertheless, even assuming the Parness' fraud to have consisted of merely failing to remit to the Casino $160,000 in marker collections, the defendants' motion must fail. The "evidence" described in Parness' affidavit is neither newly discovered, nor does it contradict Goberman's trial testimony.

8. The defendants claim that Goberman was the Government's star witness, when in fact he was but the sorry victim of the Parnessess' fraud. To claim, as the defendants do, that Goberman's testimony was not seriously impeached at trial, is to ignore the obvious. Goberman was cross-examined during three days; his cross-examination comprises over 350 pages of the transcript. The court will recall that at the conclusion of Goberman's testimony the Government stipulated that with respect to two areas of his testimony, Goberman was, in effect, lying. Moreover, the jury was

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quite aware and frequently reminded by defense counsel of Goberman's prior convictions for perjury, filing false statements and tax evasion. It is inconceivable that Goberman's credibility could have been further reduced.

9. The defendants claim is that Goberman has now made "concessions" which he was unwilling to make on cross-examination, or was never asked to make because the documentation with which to ask the questions was unavailable until after the trial. This claim is absurd. Goberman's deposition testimony merely restates what he and others testified to at trial.

A. The Reduction of the $400,000 Gross to $233,000.

Defendants assert (Aff. p. 8) that Goberman stated for the first time in his deposition that $400,000 was a gross figure for the amount of marker collections owed to the Casino on or about February 4, 1971, and that certain deductions would be proper. In fact, Goberman testified at trial on cross-examination that the $400,000 figure was a gross amount:

"Now when I said there was about $350,000 to be collected I made allowance for 10 percent. Actually the gross was more than 350, it was closer to 400,000." (Tr. 462).

The significance of Goberman's answer was not lost on defense counsel, who, a few pages later, began his question as follows:

"Q. I am talking about the point of time at which you say you arrived at the fact that $400,000 gross or approximately $350,000 after a reserve for bad debts. ..." (Tr. 472).

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Defense counsel had available to them during the trial all of the documents in the Government's possession which Goberman claimed to rely upon, in part, for his $400,000 figure. Goberman could have been confronted with those documents (Government Exhibits 167 through 177) at the trial, as he indeed was, at least with some of them. Defense counsel now attempts to show the Court that the total "gross pick up" reflected on those exhibits is only $233,000 based upon addition of the figures contained in exhibits 167 through 177.

The simple answer to this claim by Parness is that the arithmetic could just as easily have been done at the trial. The total figure reflected in these exhibits is manifestly not newly discovered evidence, nor is Goberman's assent that these documents only reflect $233,000 in gross pick ups. Goberman has said nothing new to contradict his statement at trial that his $400,000 figure was based on Exhibits 167-177 as well as other documents which he had seen in St. Martin, to which he no longer had access (Tr. 482). Indeed, in summation, as well as on cross-examination, defense counsel made much of the fact that Goberman had no documentation or means of demonstrating that the total gross pick ups due was $400,000 (Tr. 459-483, 1562, 1568, 1618).* The point that Parness misses is that neither the Government nor Goberman ever suggested that those exhibits were the sole sources of Goberman's recollection of the total gross marker pick up for which Parness was responsible.

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*Significantly, Parness makes no effort to reduce the marker collections for which he was responsible (in addition to the total reflected in Exhibits 167 through 177) by the $170,000, except to arbitrarily subtract it from Goberman's $400,000 figure because it does not appear in the exhibits. The unexplained $170,000, of course, exceeds the amount of money that Parness was charged with keeping from or failing to remit to Goberman.

8. Parness' Payments to the Casino Bank Account

Defendants further claim that Goberman's concession that about $129,000 was paid to the Casino bank account in December 1970 and January 1971 is newly discovered evidence which contradicts the testimony at trial. This is based upon Goberman's deposition of September, 1974, at which time he was shown a number of checks which were produced by Parness himself. (Parness Aff. Appendix, Deposition 9/18/74 pp. 4-5). These checks were drawn on Parness' corporation, Olympic Sports Club, Inc., and the defense had access to them during, if not in fact before, the trial.

No claim is made in Parness' affidavit that these documents were unavailable to the defense at trial. Moreover, Government's Exhibit 155 in evidence reflects the credit of all the January 1971 checks remitted by that corporation to the Casino's account. Defense counsel made great use of this exhibit in summation, and calculated for the jury that the Casino's account received $524,000 during January, February and March 1971 from Olympic Sports Club, Inc. (Tr. 1626, 1628). This "newly discovered" evidence consists of material not only available to the defendants, but actually employed by them in their defense at trial.

Obviously the defense chose not to utilize these checks at trial, and cannot now claim that their existence is newly discovered. In any event, if if the checks themselves had been introduced in evidence together with Goberman's deposition testimony, which would have only been cumulative of the exhibits already in evidence, no new result could conceivably occur as a result of their introduction.

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The crucial issue was Goberman's access to the Casino's funds after January 25, 1971 when Holzer commenced foreclosure, and after which time the evidence showed, Goberman was deprived of access to them. None of the checks proffered by defendants that Goberman allegedly received from Parness are dated later than January 14, 1971. No new evidence has been shown that indicates that Goberman had any access at all to the hundreds of thousands of dollars concededly sent by Parness to the Casino after January 25, 1971.

C. The 10% Air fare and $50 Per Man Deductions

The final and most outrageous claim advanced by the defendants is that the Government intentionally withheld exculpatory material from the defense, thereby violating its obligations under Brady v. Maryland, and for that reason a new trial should be granted. This motion permeates the defendants' arguments with respect to the claimed reduction of the $400,000 amount to $233,000 based on GX's 167-177, (n.p.6, Parness Aff.) and with respect to the deductions for the checks sent to the Casino in December 1970 and January 1971 (p. 26, Parness Aff.),* but the most extravagant allegations are reserved for the claim that the Government

* The Brady claim with respect to these items merits no further comment; the discussion of these deductions supra clearly shows that these matters were known to, and actually employed by the defense at trial.

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intentionally suppressed the fact that certain deductions for commissions and air fares were to be made from Goberman's total $400,000 figure. Specifically the defendants point to deductions of $50 per gambler, air fare and a commission of 10% which the junketeer (Parness) was entitled, according to Goberman and Blandino, to deduct from the total sum that the junketeer was required to remit to the Casino.*

Thus, Parness swears at page 24 of his affidavit:

> "The Government, however, through its agents, knew prior to the trial that in order to arrive at the net marker collections pick up certain deductions had to be made. They knew that deductions for air fare, $50 per head and 10% were proper. These facts which were critically important to the defense, were not revealed to it despite the fact that Federal Agents were aware of them."

Parness thus carefully avoids swearing that the defense was unaware of these facts before or at trial, although the tenor of the affidavit is clearly designed to imply that conclusion. The disingenuousness with which Parness makes the above-quoted claim is exceeded only by Parness' awareness that to state that he and his lawyers were unaware of these "deductions" at the time of trial would be untrue. Comon sense dictates this conclusion: it was Parness himself who was the beneficiary of the $50 a man, air fare and 10% commission deductions or, if in fact

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*Subtraction of these total monies ($90,000) from the net after defendant's previous claimed deductions, from the $400,000 gross, leaves a total of practically nothing due the Casino from Parness.

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he was not, (the testimony at trial was not entirely clear on this point) it is clear, in any event, that Parness would not have had to remit these sums to the Casino as part of the marker collections. Obviously, if Parness was unaware that he was entitled to these fees, or at least that he did not have to remit them, he could not attempt to deduct them from the marker collections due the hotel - he would have thought that they had to be remitted.

Common sense, however, does not provide as compelling a refutation of Parness' claim as his own sworn testimony at a hearing during trial. Thus, Parness stated, in relevant part:

> "I would then give this [manila envelope with the markers] to the junketeer, tell him, 'you owe me $10,000 after the commission plus 50 a head' or whatever expenses were incurred. ..." (Tr. 551).

Parness well knew what deductions were appropriate - Goberman's concessions at his deposition did not come as a surprise to him. Moreover, Goberman himself articulated all three items of deduction in his <u>direct</u> testimony. Thus he stated:

> "[A junketeer] gets paid at the end of the junket... and if he has a sum of money to be delivered to the casino or his representative he then gets whatever deal is made which basically is 10 percent of the winnings of the casino less the cost of the plane which would come off that. That is how he gets paid." (Tr. 27).

and

> "Q. ... does a junketeer, in your experience, ever get paid a flat rate? That is so much per head for people who go on junkets?

> A. Now that you brought that per head up I believe in most cases they would get a percentage plus I think $50 for each person. That would be part of their fee. (Tr. 28).

Moreover, defense counsel cross-examined Goberman at length about these deductions. (Tr. 482-485).

The testimony elicited from Goberman on this subject puts to rest this frivolous Brady claim. Nevertheless, any lingering question as to whether the defense was or should have been aware of these "deductions" at the time of trial is dispelled by the following circumstances:

i. Goberman did not volunteer these deductions during his depositions; he was specifically asked about them by defense counsel. One can only surmise that defense counsel learned of these deductions during his participation at trial, or before trial, from his client, Parness, or from a defense witness, i.e., John Blandino. No explanation is offered in Parness' affidavit for the source of defense counsel's knowledge of these deductions. In this connection, it should be observed that these questions were asked of Goberman well before the deposition of Blandino, who presumably first alerted defense counsel to the fact that the Government was aware of these deductions prior to trial; and

ii. A review of John Blandino's deposition indicates that he claims to have told the Government of these deductions long before the trial; Blandino, however, was a defense witness at trial, and through the most minimal of diligence his knowledge of these "deductions" could have been ascertained by defense counsel. Presumably that diligence was exercised, if defense counsel followed the common legal practice he described in summation:

> "Did you ever hear of a lawyer who put a witness on the witness stand, a key witness in a case, a criminal case, without talking to him first and knowing what the man is going to say and going over his testimony? And there is nothing wrong with that. You are an idiot if you don't do it.
>
> There are certain rules that have to be gone into and you want to cover what questions are going to be [asked] and what areas of testimony are going to be." (Tr. 1582).

Clearly whatever inquiry of Blandino produced his testimony at the deposition was or could have been employed prior to his trial testimony with the same result. One must assume that Parness is not alleging the incompetence of this trial counsel; obviously counsel must have interviewed Blandino in the detail commended in his summation, ascertained Blandino's testimony on this point, and thereafter elected not to elicit any testimony with respect to these deductions, since Goberman had already been cross-examined on the issue.

In sum, the Brady claim with respect to the Government's concealment of evidence purportedly favorable to the defense fails miserably.

10. No additional supporting affidavits have been submitted as part of these responsive papers, since in the judgment of your deponent no issues of fact are presented by the defendants' claim that require any further refutation than has already been supplied herein.

11. Since it is manifest from examination of the transcript of the testimony at trial, and from the most cursory review of the relevant exhibits that this third post-trial motion of the defendants based on purportedly newly discovered evidence is totally frivolous and wholly without merit, no hearing should be granted.

JNR:ew J 386

WHEREFORE, it is respectfully submitted that defendants' motion should be denied.

/s/ Joel N. Rosenthal

JOEL N. ROSENTHAL
Assistant United States Attorney

Sworn to before me this
4th day of March, 1975.

...ipt of a ___
...to a copy, was this day
...within entitled action,
...the Clerk of this Court.

..., N. Y., _____, 19___

Yours, etc.,

_____
United States Attorney
Attorney for _____

_____
Attorney for _____

...take notice that the within ___
...presented for settlement and sig-
...of the Honorable _____
...States District Judge, at the office of
...Clerk, Room 601, United States Court-
...e, Foley Square, Borough of Manhat-
...City of New York, on the ___ day of
_____, 19___, at 10:30 o'clock in the
___ noon or as soon thereafter as coun-
...can be heard.

...ted, N. Y., _____, 19___

Yours, etc.,

_____
United States Attorney
Attorney for _____

_____
Attorney for _____

United States District Court

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

WILSON RAMOS, and
BARBARA RAMOS,

Defendants.

AFFIDAVIT OF SERVICE
OF WITHIN [illegible] etc.
[illegible]

...PAUL J. [illegible]
TEL. [illegible]
791-1918
United States Attorney
Attorney for [illegible]

Due service of a copy of the within is hereby admitted.

New York, _____, 19___

_____
Attorney for

To

_____
Attorney for

FFI—SD—6-13-74—30M—1214

J 387

JNR:ems J 388

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	
-v-	:	SUPPLEMENTAL AFFIDAVIT IN OPPOSITION TO DEFENDANTS' MOTION FOR A NEW TRIAL
MILTON PARNESS and BARBARA PARNESS,	:	
Defendants.	:	73 Cr. 750 (DBB)

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

JOEL N. ROSENTHAL, being duly sworn, deposes and says:

1. I am an Assistant United States Attorney in the office of Paul J. Curran, United States Attorney for the Southern District of New York, and I make this affidavit in response to defendants' second supplemental affidavit in support of their motion for a new trial.

2. Defendants' most recent affidavit alleges that during oral argument of motions in the civil action against the defendants in which he appears pro se, Allan Goberman, a Government witness at trial, and the victim of the Parnesses' fraud, stated that the Government had originally promised to sue for the recovery of his hotel, did not do so, and therefore he was suing for that relief. The affidavit goes on to state that failure to advise the defense of this alleged promise, during trial, constituted a violation of the Government's obligations under Brady v. Maryland. This claim, like the others advanced by defendants in support of their new trial motion, has no merit.

3. In the first place, Goberman's unsworn-statement is ambiguous; it is far from clear whether Goberman actually believed at the time he testified, that the Government had promised to "get back his hotel." The only time

when such a belief could have any relevance whatever on the instant motion, obviously, would be at the time of his testimony.

4. Second and more importantly, Goberman had in fact, been thoroughly disabused of any notion that theGovernment would act as his collection agent, or would assist him in his civil action to recover his hotel. I have been advised by Harold McGuire, Esq., the Assistant United States Attorney who tried the case, that prior to trial he had conversations with Goberman in which he advised Goberman in no uncertain terms that the Government was not his collection agent, would not attempt to recover his hotel for him, and would not give him any further assistance than supplying him with copies of trial evidence and other documents which are public records. It is Mr. McGuire's belief that at trial Goberman will know that the Government was not going to assist him with any civil proceedings to recover his hotel.

5. Indeed, Goberman's antipathy towards the Government, arising from this understanding, is manifest throughout the trial record. Thus, Goberman had to be subpoenaed to testify (Tr. 211), and testified that Mr. McGuire was endeavoring to put him in jail (Tr. 227). Other evidence of Goberman's hostility towards the Government appears at Tr. 232-33, and throughout his redirect examination, commencing at Tr. 499.

6. Obviously, the Government had no obligation to notify defense counsel of this "promise" made to Goberman, when, in fact, there wasn't any such promise made, see Williams v. United States, 503 F.2d 995 (2d Cir. 1974).

JNR:emw

J 390

CONCLUSION

7. The most recent affidavit of the defense advances no new facts which would justify a new trial, or even a hearing to determine whether to grant such a new trial.

For all the foregoing reasons, the defendants' application should be denied.

JOEL N. ROSENTHAL
Assistant United States Attorney

Sworn to before me this

day of March, 1975.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA

-against-

MILTON PARNESS
and BARBARA PARNESS

73 Cr. 750

REPLY AFFIDAVIT

----------x

STATE OF NEW YORK)
ss.:
COUNTY OF NEW YORK)

MICHAEL ROSEN, being duly sworn deposes and says:

1. I am a member of the firm of Saxe, Bacon, Bolan & Manley, attorneys for the defendants. I make this Affidavit in reply to the answering affidavits submitted by the prosecution and further in support of the defendants' application for a new trial pursuant to Rule 33 of the Federal Rules of Criminal Procedure.

INTRODUCTION

2. The thrust of the prosecution's position is apparently three-fold. It urges that the defendants have not produced new evidence but rather new conclusions based on the trial evidence (Paragraph 4). Second, that not-withstanding the new evidence, the result would have been the same because of the prosecution's so-called "Remittance-Deprivation Theory" (Paragraph 6); and third, that inasmuch as the prosecution reasonably concluded that the defense was aware of, or should have been aware of, certain exculpatory evidence, the government

was absolved from its duty to disclose the exculpatory evidence and to correct false testimony given by a prosecution witness which the government knew to be false. Each of these conclusions is untenable as a matter of fact and law. Though the arguments offered by the government are cloaked under the guise of "righteous indignation", they are nevertheless, specious and will be rebutted below.

THE PROSECUTION'S SUPPRESSION OF EXCULPATORY EVIDENCE

3. It will be recalled that as part of the defendants' motion for a new trial, we urged that the prosecution had intentionally suppressed the fact that in computing what money the defendant, Milton Parness, purportedly owed to the witness Goberman, a certain formula for deductions should have been used; that the government knew but suppressed the fact that an additional sum in excess of $170,000 should have been deducted from the alleged money due from Parness to Goberman; and that the government, in substance, promised Goberman that they would recover and return to him the Hotel-Casino in St. Maarten in exchange for his testimony and cooperation.

4. The prosecution does not deny that it had knowledge of the exculpatory evidence described in the defendants' first two contentions above, but instead it attempts to shift the burden by urging that inasmuch as it could have been reasonably concluded that the defense had knowledge, the prosecution's obligation to divulge such evidence no longer existed. The government urges that "common sense" dictates that the defense knew or should have known of the exculpatory evidence. No support in law is given for this unique position.

5. Assuming arguendo that the prosecution is factually correct, its conclusions are as a matter of law incorrect. The government's position overlooks that the basis of the defendant's claim is premised upon a breach of the prosecution's duty of disclosure and thus challenges the fairness and validity of the proceedings. As such, relief does not depend on whether the prosecution could reasonably conclude that the defense knew of the exculpatory evidence or whether a more able, diligent or fortunate counsel might possibly have come upon the evidence on his own, but whether the prosecution breached its duty pursuant to Brady v. Maryland and the due process clause of the Fifth Amendment to the Constitution of the United States. See, Levin v. Katzenbach, 363 F. 2d 287, 291 (D.C. Cir. 1966); Ellis v. United States, 345 F. 2d 961, 963 (D.C. Cir. 1965); United States v. Poole, 379 F. 2d 645, 648 - 649 (7th Cir. 1967); and Grant v. Alldredge, 498 F. 2d 376 (2nd Cir. 1974).

In Levin v. Katzenbach, supra., the Court of Appeals for the District of Columbia reversed the District Court's denial of the defendant's petition for a Writ of Habeas Corpus. In language which is particularly apt to the instant case, the Court stated:

> "The government contends that, since the fact that McCeney and Hopper did not remember the exchange could have been discovered by appellant, the government's failure to disclose it did not violate appellant's rights. Ordinarily, a finding of lack of due diligence will defeat a motion for a new trial based only upon the significance of newly discovered evidence. But appellant's claim for relief based upon a breach of the prosecutor's duty of disclosure challenges the fairness, and therefore the validity, of the proceedings, and relief, either on a motion for a new trial or for habeas corpus, may not depend on whether more able, diligent or fortunate counsel might possibly have come upon the evidence on his own. A criminal trial is not a game of wits between opposing counsel, the cleverer party, or the one with the greater resources, to be the 'winner'." (Footnotes omitted)

Similarly, in United States v. Poole, supra., the 7th Circuit held:

> "It is true, as the government argues, that defense counsel was not diligent in following up the information obtained at the preliminary hearing, despite its inaccuracy. The government failed to correct the misinformation, however, and we think under these circumstances Poole should not suffer for the mistakes of his counsel. Levin v. Katzenbach, 124 U.S. App. D.C. 158, 363 F. 2d 287 (1966); Barbee v. Warden, 331 F. 2d 842, 845 (4th Cir. 1964); cf. Ingram v. Peyton, 367 F. 2d 933, 936 (4th Cir. 1966)." (Footnotes omitted)

6. In Ellis v. United States, supra., Chief Judge Bazelon concurring in the reversal and remand of a conviction for manslaughter stated:

> "It is not clear from this record whether appellant's attorney knew before trial of appellant's allegation that the police had material exculpatory information.

> But even if the attorney did know of this allegation, we cannot presume that he could successfully have obtained this information from the Government witnesses because of the virtual non-availability of pretrial criminal discovery in these circumstances. See Goldstein, The State and the Accused: Balance of Advantage in Criminal Procedure, 69 Yale L.J. 1149, 1180-85 (1960); compare 18 U.S.C. §3500. Moreover, the possibility that appellant might have developed this information without recourse to Government files or witnesses, by searching hospital records or by locating Wilson's alleged companion, Cooper, would not necessarily relieve the Government of its duty to disclose exculpatory information."

7. An analysis of the language in Ellis, as well as other cases cited above, makes it crystal clear that the Courts have continually and consistently distinguished between "fact" and "proof of fact" as they may occur in an exculpatory context. For example, it is not disputed that on January 14, 1971, Olympic issued a blank, signed check to Allan Goberman. However, knowledge of the exculpatory nature of this check was not made known to the defendant until long after the trial had been terminated. The operative events which made the check exculpatory were:

a) The prosecution's remittance and deprivation theory, first ennunciated in its summation; and

b) The revelation by Goberman for the first time in his civil deposition that the check was filled out as to payee and amount in his own handwriting.

Presumably the prosecution knew at the time of its summation that the check was in Goberman's handwriting. Yet they failed to disclose this highly important information to the defense. Had the defense been properly advised by the prosecution, it could have urged that the prosecution's remittance deprivation theory was a sham inasmuch as as late as January 14, 1971, Goberman had the means and access to pay the Holzer loan with a blank check from Olympic. The failure of the prosecution to disclose these facts, we submit, violated the doctrine of fundamental fairness and due process of law.

Similar examples abound throughout the record. (See Parness affidavit, pages 19 through 27.)

8. If the prosecution's position is correct, then the "bloody shorts" discussed in Miller v. Pate, 386 U.S.1(1967), would never have been revealed to be the "paint covered shorts", if the prosecution there believed that the defendant knew or should have known of such evidence.* In short, the defendant's possible awareness or "common sense" is not the test. The test is rather whether the prosecution had exculpatory evidence which it failed to disclose, and whether the prosecution suborned false testimony. In the instant case, the prosecution failed both tests.

---

* In fact, the prosecution in Miller did claim that the defendant knew the shorts were paint covered. In Miller, however, the prosecution's standard was "obviousness" instead of the "common sense" urged here. 87 S. Ct. at p. 787.

9. With respect to the third genre of exculpatory evidence, to wit, the government's promise to get Mr. Goberman his Hotel back in return for his cooperation; the prosecution responds by urging that Goberman's revelation as to the promise was unsworn, ambiguous, and unclear as to whether he believed at the time he testified that the government would get his Hotel back. (Government's Supplemental Affidavit - Paragraph 3.) The prosecution in so urging, misses the point. Goberman represented to a United States District Court Judge that the government had made such a promise. It is not important whether Mr. Goberman believed the government would live up to its promise; but what is critical, is the promise itself and the prosecution's failure to disclose the promise. Certainly the fact that such a promise was made at <u>any time</u> to secure Goberman's cooperation and/or testimony would have a critical bearing on the credibility of the government's chief protaganist. Had the jury been advised of the prosecution's bargain with Goberman, it may well not have returned the verdict that it did.

10. Moreover, the prosecution's half-hearted hearsay denial advising that one of the prosecutors at the trial advised Goberman that the government would not attempt to recover his Hotel to him is totally insufficient. Mr. McGuire's unsworn, quasi-denial fails to inform this court whether a promise was ever made <u>by any of</u> the prosecutors, and the silence of Mr. Campbell and Mr. Friedman, Mr. Dowd and Mr. Pollack is deafening.

We respectfully submit that this issue is in itself sufficient for this Court to order a hearing and upon such hearing to grant the defendants' motion.

NEWLY DISCOVERED EVIDENCE

11. In response to the defendant's contentions of newly discovered evidence, the prosecution in its responsive affidavit sets forth a number of conclusions in an attempt to rebutt the defendants assertions. These conclusions, however, are based on the inaccurate and erroneous view of the trial record and civil deposition.

12. In Paragraph 5 in his affidavit in opposition, the prosecution states that "defendants' arguments are premised upon the erroneous belief that the government's theory at trial was that the defendants had failed to remit to Goberman or the Casino the $400,000 in marker pick-ups due the Casino."

13. In Paragraph 6, the prosecution urges that the newly discovered deductions from the $400,000 are not material because they "ignore the actual theory of fraud as proven at trial, namely that Parness deprived Goberman of the money to which he was entitled from the Casino earnings with which he could have paid off the Landeau-Amsterdam loan." Indeed, the prosecution now urges that this theory was argued by the government in summation.

14. Consequently, the prosecution alleges in Paragraph 6 of its affidavit that "nothing contained in the defendants' moving papers indicates that Goberman's testimony and the other evidence of the inexcessibility of the Casino funds have even been slightly contradicted ". This conclusion is erroneous.

15. On trial Goberman consistently maintained that as of the early part of February, he was owed $400,000 in uncollected markers and that the only legitimate deduction that Mr. Parness could take was 10% for bad debts. It was in his civil deposition that Mr. Goberman for the first time conceded that the formula used by other junketeers also applied to Mr. Parness. Thus on trial, Goberman testified as follows:

> Q. Did you agree to give Mr. Parness any compensation other than commissions you say were coming into an agency named, a travel agency named Travel Time?
>
> A. Mr. Parness said he would like to become my partner, and based on that fact, that he was satisfied to go along with the arrangement that we had until which time he was going to come up with a million dollars, at which time I was going to give him a 50 per cent ownership in the casino because I then began to fully realize that --
>
> MR. COHN: Well, your Honor, I don't know if we want his realizations.
>
> Q. So in any event you discussed a partnership with Mr. Parness on the 50-50 basis of the casino and while that was in the process of being further discussed or worked out, you both went along as you were?
>
> A. Yes.
>
> Q. <u>Without any specific compensation for Mr. Parness</u>?
>
> A. <u>That's right</u>. (R 487 - 488.)

Compare this with Goberman's representation to U. S. District Court Judge Meanor on February 24, 1975:

> THE COURT: What were you giving Parness as a share of the profits?
>
> MR. GOBERMAN: Parness was working under his -- as anoth (sic.) junketeer temporary until which time he came up with the amount of money he promised to come up with to become a partner in the entire operation which he never did, because instead of doing that, he pushed me out of the operation by --
>
> THE COURT: You didn't answer my question. You had some kind of an arrangement with Parness.
>
> MR. GOBERMAN: I'm sorry. The same agreement we had with the other junketeers 10 per cent -- 10 per cent of the profits and $50 a head. (Proceedings of 2/24/75, pages 34 - 35.)

16. Therefore the defense for the first time was abl to demonstrate that in fact as of February 4 and February 9, 197 Mr. Parness did not owe Mr. Goberman or the Casino any money. If this is correct, then counts 4, 5, and 6, the substantive counts which were used as the pattern of racketeering charged in count 1, must fall. If those counts fall, then count 1 must fall, the government's deprivation theory notwithstanding.

17. In addition, we respectfully submit that Mr. Rosenthal's analysis of the indictment, trial record and Court of Appeals opinion is erroneous. These documents make it crystal clear that the defendants' version of the facts is correct. Thus the Court of Appeals held:

> "In short, there was ample circumstantial evidence from which the jury reasonably could find the requisite theft or con-version.

> The record establishes that Hotel Corp. failed to receive approximately $400,000 in overdue marker accounts payable during a period when Parness was solely responsible for and had exclusive control over marker collections. Parness thus had access to vast sums of money due Hotel Corp. and a clear opportunity to have concealed collections and to have withheld the proceeds.
>
> The record further shows that Olympic derived its income almost exclusively from junket front money and marker collections. From this the jury was entitled to infer that the two Olympic checks totalling $61,000, which Barbara used on February 4 and 9 to purchase the cashier's checks, represented the proceeds of unremitted marker collections."

18. Moreover, the government's remittance-deprivation theory on summation was not concerned with Goberman's inability to pay the Landeau-Amsterdam loan as is now suggested, but rather his inability to repay the Holzer loan which became due on January 25, 1971. See, 503 F. 2d 430, P. 434, 435 and (R. 1645, 1646). The Landeau-Amsterdam loan did not become due until long after February 9, 1971. It is therefore obvious that counts 4, 5 and 6 of the indictment relate to Parness' alleged deprivation of marker collections from Goberman with respect to the Holzer loan. A fortori, if Parness owed Goberman no money at the time the Holzer loan was due, counts 4, 5 and 6 must fall and with them count 1.

19. In an attempt to downgrade the importance of Goberman's testimony, the government now asserts that rather than their "star witness" he was "but the sorry victim of Parness' fraud".

The prosecution, however, fails to mention that their "sorry victim of fraud" concededly committed perjury during the trial of this action, has been convicted of at least two other criminal offenses, has deprived his creditors of approximately $1,000,000 (see attached certification of judgments), and as recently as February, 1975 made contradictory representations to a United States District Court Judge.

20. Under the subheading A in Paragraph 9, pages 5 and 6, the government urges that Mr. Goberman's testimony during the course of his civil depositions was not new. They urge that Goberman's "$400,000 figure was based on Exhibits 167-177 as well as <u>other</u> documents which he had seen in St. Maarten to which he no longer had access". (TR 482). The prosecution's reference to the so called <u>other</u> documents is intellectually dishonest. A perusal of Goberman's testimony on trial reveals that he initially referred to <u>other</u> documents but that thereafter Mr. McGuire, on behalf of the prosecution, represented to the Court that Exhibits 167 - 177 were all of the documents that Goberman had relied upon in formulating his $400,000 figure. Moreover, Goberman, himself, finally admitted that Exhibits 167 - 177 were all of the documents he relied on and that his prior reference to "other documents" meant the originals of Exhibits 167 - 177.

> "Now, when I said there was about $350,000 to be collected I made allowance for 10 per cent. Actually the gross was more than 350, it was closer to $400,000.
>
> Q. Mr. Goberman, can you give us some substantiation for those figures which are of importance to us?

A. Yes.

Q. Would you please?

A. I don't have these records. The records are in the court here.

THE COURT: As I understand it, this figure came out from the time when you examined the records and this was the figure you arrived at from examination of the records.

THE WITNESS: I had the actual copies of the records and they are in the courtroom now.

Q. They are in the courtroom now?

A. Yes, they are, or they should be.

Q. May I trouble you, depending on his Honor's instructions -- whether it is now or during a recess certainly would be agreeable -- if you could tell us what you state is the factual basis for your arrival at this $350,000 or $400,000 figure as to markers which you say were due and collectible around the time --

THE COURT: I think it would be fair if Mr. Goberman were given an opportunity to look at these records if they are in the court room. I don't know about the collectible, but he could tell us how he arrived at this figure of $350,000.
You think you could do that if you had a chance --

THE WITNESS: Yes, sir, very simply.

MR. MC GUIRE: If it will save time, your Honor, I think the records Mr. Goberman is referring to are Exhibits 167 through 177 for identification, copies of which Mr. Cohn has. Exhibits 167 is in evidence. I am handing those exhibits to Mr. Cohn.

Q. Would you look at these, and if you require more records, would you tell us about it.

THE COURT: Is it possible for you to look at those records now or would it take you a little time to look at the records?

> THE WITNESS: No, sir. I had seen these and these are the records I was referring to. They are not all here, but based on even these I came to that figure.
> (R 462 - 464)
>
> * * *
>
> THE COURT: I don't quite understand the question. As I understand it, the witness has testified that in making this $400,000 estimate he included these figures from these records and perhaps some others that he has not got the records of. But he certainly included the 74.
>
> THE WITNESS: That's right.
> (R 471 - 472)

In any event, the so-called "other documents" referred to Mr. Goberman's ability to reconstruct how he arrived at the $400,000 figure, (see TR 482), not the fact that there was additional money owed based on "other documents".

21. The prosecution next urges that the government never suggested that Exhibits (167 - 177) were the sole source of Goberman's recollection of the total gross marker pick-up for which Parness was responsible. On trial, however, Mr. McGuire represented to the Court as follows:

> "If it will save time, your Honor, I think the records Mr. Goberman is referring to are Exhibits 167 through 177 for identification, copies of which Mr. Cohn has. Exhibit 167 is in evidence. I am handing those exhibits to Mr. Cohn."

22. Under subheading B of Paragraph 9, (pages 7 and 8), the government urges that introduction of the Olympic checks together with Goberman's deposition testimony would only have been cumulative of the Exhibits already in evidence and that therefore, no new result could conceivably occur. The prosecution further contends that the crucial issue was Goberman's

access to the Casino funds after January 25, when Holzer commenced foreclosure. According to the government, none of the checks proffered by the defendants, allegedly received from Parness, are dated later than January 14, 1971.

The government is in error in at least three respects. First, according to Goberman's testimony on direct examination, he was not deprived of access to any funds until some time after February 4. He thus testified:

> Q. Tell us how you lost control over those bank accounts?
>
> A. I didn't know I lost control of the bank accounts until I was told by Mr. MacDonald, the manager --
>
> MR. COHN: I object to what he was told by Mr. Mac Donald.
>
> Q. Who is Mr. Mac Donald?
>
> THE WITNESS: The manager of the Bank of Nova Scotia told me that I have no more rights in that bank.
>
> MR. COHN: Objection.
>
> THE COURT: I will allow that. Not for the truth of the statement -- that is what Mr. Mac Donald told you?
>
> THE WITNESS: Yes, sir.
>
> Q. What was it he told you?
>
> A. That there had been --
>
> Q. What was it that Mr. Mac Donald told you?
>
> A. That it now takes two signatures on checks or any papers belonging to the company in that bank and that I have no legal rights to my bank account on my own signature as there had been some changes made.
>
> Q. That was the manager of the bank that told you that?
>
> A. He was also managing director of the bank corporation.

Q. Approximately when, if you recall, did this conversation take place between you and this Mr. Mac Donald?

A. I don't remember the exact date.

Q. Was it after February 4th?

A. Yes, sir.

(R 102 - 104, emphasis supplied)

Second, the government ignores a check from Olympic in the sum of $42,000 on January 22, 1971 which Goberman concedes should have been deducted from the gross pick-ups. (Deposition of July 3, 1974, pp. 79 - 81.)

Third, that if these checks are deducted from the $400,000, together with the legitimate deductions due for airfare, etc., there was no money owed to the Casino or Goberman or the Hotel on February 4. If no money was owed, than stolen or converted money could not have been transported across state lines and thus the indictment falls.

In short, the prosecution's position with respect to the newly discovered evidence and the suppression of exculpatory evidence is not supported by the facts or law.

A NEW TRIAL SHOULD BE GRANTED IN THE INTEREST OF JUSTICE

23. The government contends that although the defendants may be correct in their analysis of the deductions from the $400,000 in marker collections reportedly due, a new trial should not be granted inasmuch as the government's theory was one of deprivation of funds.

24. The prosecution is respectfully challenged to point to any reference in the indictment, Bill of Particulars, its opening statement or record of trial in which it allegedly charged or proven that the defendants deprived anyone of access

to the funds remitted on marker collections.

In any event, assuming arguendo that the defendants did deprive Goberman of access to Casino Funds some time after February 4, 1971, the calculations and deductions demonstrated by the defendants in their motion for a new trial, require the Court to grant their motion "in interest of justice".

We respectfully submit that the deductions shown establish beyond peradventure that no money was missing from the collections due Goberman as of February 4 and February 9, 1971. In that event, the money that traveled in interstate commerce on those dates could not have been stolen or converted and as the prosecutor stated in his summation "there would be no jurisdictional basis for the federal crimes charged in the indictment". (R 1611)

25. Paragraph 2 of the indictment alleged that Parness acquired control of Hotel Corp. through "a pattern of racketeering activity" as defined in Title 18 U.S.C. Section 1961(1)(B) and 1961(5). Paragraph 3 and its 14 subdivisions sets forth various acts and occurrences in chronological order for the most part by which Parness allegedly gained control. The operative subparagraphs are (h), (i) and (j), which charge individual acts of racketeering indictable under Title 18 U.S.C. Section 2314, the commission of any two being sufficient to convict. Counts 4, 5 and 6 were identical to those subparagraphs.

26. Therefore, for any judgment of conviction to stand, monies "stolen, converted or taken by fraud from Hotel Corp." would have had to cross state lines on either February 4 or 9, 1971. Without such [illegible]dent the Parnesses must be acquitted. I suggest the government must and has conceded this.

27. It is now well established in this circuit that the District Court has the power to grant a new trial pursuant to Rule 33 of Federal Rules of Criminal Procedure if in his opinion a new trial was required in the "interest of justice" eventhough no specific error warranted this. (U.S. v. Weinstein, 452 F. 2d 704, 715-716 (2nd Cir., 1971))

28. In Weinstein, Chief Judge Friendly, speaking for a unanimous Court held:

> "We have no doubt that, on Grunberger's timely motion, the judge had power to grant a new trial if he thought, in the language of the Rule, that this was "required in the interest of justice" even though, in his phrase, "no specific error" warranted this.
>
> * * *
>
> If we were to look only at the language of F.R. Cr.P. 33, we would perceive no obstacle to a judge's granting a timely motion for a new trial, although made only on the ground that this is "required in the interest of justice" rather than on that of newly discovered evidence, even after he had entered a judgment of conviction."

29. It is respectfully submitted that the evidence presented in the defendants' initial affidavit, supplemental affidavit including the reports of a lie-detector test, and this reply affidavit, more than adequately sets forth grounds for a new trial whether or not the prosecution characterizes the evidence as new or not. In this connection, it should be recalled that a criminal trial is not a game of wits between opposing counsel, the cleverer party or one with the greater resources to be the winner.

WHEREFORE, your deponent respectfully requests that the defendants' application be in all respects granted.

MICHAEL ROSEN

Sworn to before me, this
17th day of March, 1975.

ANN TURCHIANO
Notary Public, State of New York
No. 24-0035040
Qualified in Kings County
Commission Expires March 30, 1975

J 410

COURT OF COMMON PLEAS
OF LANCASTER COUNTY, PENNSYLVANIA
OFFICE OF THE PROTHONOTARY

COPY

COMMONWEALTH OF PENNSYLVANIA:
: ss:
COUNTY OF LANCASTER :

I certify that the following judgments and tax liens against Allan N. Goberman and Lillian G. Goberman appear on the records of the Prothonotary of the County of Lancaster, and have not been satisfied as of this date:

1. Conestoga National Bank, Lancaster, Pa., vs. Allan N. Goberman and Lillian G. Goberman, confessed judgment, entered June 25, 1970, to No. 1808 of 1970.....$125,000.00

2. Conestoga National Bank, Lancaster, Pa., vs. Allan N. Goberman and Lillian G. Goberman, confesses judgment, entered June 25, 1970, to No. 1809 of 1970.....$130,000.00

3. Fulton National Bank, Lancaster, Pa., vs. Allan N. Goberman and Lillian G. Goberman, confessed judgment, entered June 26, 1970, to No. 1824 of 1970.....$400,000.00

4. American Bank & Trust Company, Reading, Pa., vs. Allan N. Goberman and Lillian G. Goberman, confessed judgment, entered December 22, 1970, to No. 3568 of 1970.....$755,726.25

5. United States of America vs. Allan N. Goberman and Lillian G. Goberman, for personal income tax, entered June 23, 1971, in Federal Lien Docket 3, No. 324.....$570,041.37

6. United States of America vs. Allan N. Goberman and Lillian G. Goberman, for personal income tax, entered April 17, 1974, in Federal Lien Docket 3, No. 839.....$610.16

Prothonotary

Dated: August 5, 1974

I certify that I have examined the records of the Prothonotary of Lancaster County, and that the items listed above constitute all the current judgments and tax liens against Allan N. Goberman and Lillian G. Goberman as reflected in those records, and that the dates and amounts set forth above are true and correct.

H. Joseph Flynn, Esquire

J 411

March 24, 1975

Hon. Dudley R. Bonsal
United States District Court Judge
United States District Court
Southern District of New York
Foley Square
New York, New York

United States v. Parness

Dear Judge Bonsal:

As I informed your law clerk this morning, I have been retained to represent Barbara Parness in connection with Mr. & Mrs. Parness' motion for a new trial.

In connection with my retention, I have reviewed the trial record, the brief submitted on appeal and the defendants' motion for a new trial including the Government's opposition papers thereto. I further caused an investigation to be made with respect to a pending action in the United States District Court for the Eastern District of Pennsylvania, entitled Allan Goberman v. United States, Civil Action 73-2669. An analysis of the file in that Civil Action revealed a number of documents in the form of letters by Mr. Goberman to the various prosecutors in the Criminal Action tried before your Honor in the Southern District of New York in September, 1973. The letters dated between December 1972 and August 1973 are addressed to: Michael Pollack, Esq., R. J. Campbell, Esq., Sidney Resnick - Agent Internal Revenue Service, Lawrence Leff, Esq. - a member of the Organized Crime & Racketeering Section of the Department of Justice, and Harold F. McGuire, Esq.

In general, the subject matter of these letters deals with the material delved into at length during the examination of Mr. Goberman during the Criminal trial. Despite this fact, I have been informed by Michael Rosen, Esq., heretofore one of the attorneys for the Parnesses, that none of these letters which clearly fall within the purview of 18 U.S.C. § 3500 were ever disclosed either to the Court, in camera, or defense counsel. A copy of these letters is being attached heretofore for your Honor's perusal.

Under these circumstances and in view of the statute and applicable ~~case~~ law (see for example, U. S. v. Aviles, 315 F. 2d 186,(2nd Cir. 1963), I believe that a hearing is necessary to determine whether or not the sanctions imposed by § 3500 should be applied in the instant case. I further believe that these letters taken together with the previously discovered new evidence and suppression by the government of evidence favorable to the defense, requires a hearing and upon said hearing a new trial in the interest of justice.

A copy of this letter is being forwarded simultaneously herewith to the United States Attorney for the Southern District of New York.

Very truly yours,

GASTHALTER & POLLOK

BY: _____
John L. Pollok

JLP/jd
cc: U.S. Attorney
Southern District of N.Y.
Encs. 38

J 413

March 25, 1975

Honorable Dudley B. Bonsal
United States District Judge
United States Courthouse
Foley Square
New York, New York 10007

Re U.S. v. Parness

Dear Judge Bonsal

On behalf of Milton Parness I respectfully transmit the attached documents.

Information has recently been obtained indicating that Mr. Coberman sued the United States in Federal Court Eastern District of Pennsylvania to recover the $60,000 which played such a prominent part in the criminal trial and opinion of the Court of Appeals.

As a part of that litigation apparently Mr. Coberman produced writings which were never furnished to the defense at the trial. We submit that this failure was in violation of both 3500 and the Brady doctrine. Said writings are attached hereto. The writings, and 4 other things, include letters from Mr. Coberman to:

1. Michael Pollack Esq., a Special Attorney of the Department of Justice Organized Crime Strike Force Eastern District of New York. Mr. Pollack interrogated Mrs. Parness before a Grand Jury and was the first local Justice Department attorney connected with the case

2. R. T. Campbell, Esq. a Justice Department Attorney who assisted in the presentation of the Indictment in this case.

3. Mr. Sidney Resnick I.R.S. Agent, Detroit Michigan.

4. Lawrence Leff, Department of Justice Attorney in Detroit, Michigan.

5. Harold F. McGuire Jr. Esq., the Assistant U. S. Attorney who tried the case.

A reading of these letters and writings reveals an effort on behalf of the government to recover for Mr. Goberman the $60,000 seized by I.R.S. agents which was en route from Sam Norber. The documents reveal meetings, conversations and agreements between Mr. Goberman and government agents which were suppressed by the prosecution at trial.

For example Mr. Goberman's December 13, 1972 letter to Mr. Pollack refers to the government's intention "to persue the Fish Weinberg matters..." and to recover monies from those persons which was allegedly obtained by fraud. One letter is addressed "Dear Mike" and signed "Allan." A notation from Mr. Goberman's diary states, "Mike keeps 'insisting' he doesn't want to go ahead 'til R.J. is thru with me..."

Mr. Goberman's letter to Mr. Pollack of January 11, 1973 (addressed "Dear Mike" and signed "Allan") states "I trust the following two persons are in good health (1) your charming wife (2) your beautiful baby..." (emphasis added). A notation from Mr. Goberman's diary states, "I must be dead as far as the hotel is concerned."

Mr. Goberman's January 22, 1973 letter to Mr. Pollack contains the following statement, "Mike I've at all times done (anything) everything you've asked me to do... (emphasis added) and "I've done everything R.J. has asked of me..." (emphasis added). Mr. Goberman's March 13, 1973 letter to Mr. R. J. Campbell discusses the government's assistance in recovering the $60,000 Norber monies.

The documents speak for themselves. They are dated pre trial and were unquestionably in the possession of the government and never turned over to the defense. Had the defense known about these documents its cross examination of Mr. Goberman would have been drastically different.

J 415

We respectfully request that this Court inquire into this situation at a hearing and take such appropriate steps as required by [illegible] and the Brady doctrine.

Respectfully,

SAYLE BACON BOLAN & MANLEY

By Michael Rosen

sk
Encls.
cc: United States Attorney

J 416

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA

-against-

MILTON PARNESS,
Defendant.

NOTICE OF MOTION

73 Cr. 750

----------X

S I R S :

PLEASE TAKE NOTICE, that upon the indictment, the judgment of conviction, the Affidavit of Michael Rosen, Esq. sworn to the day of May, 1975, with Exhibits annexed thereto, and all other papers and proceedings heretofore herein, a Motion will be made before Hon. Dudley B. Bonsal at a time and place to be fixed by the Court, for an Order pursuant to Rule 35 of the Federal Rules of Criminal Procedure, modifying and reducing the sentence previously imposed by the Court; and for such other and further relief as the Court shall deem just and proper.

DATED: New York, New York
May , 1975

Yours etc.,

SAXE, BACON, BOLAN & MANLEY
39 East 68th Street
New York, New York 10021
(212) 472-1400

TO:

PAUL J. CURRAN
United States Attorney
Southern District of N. Y.

CLERK OF THE COURT
Southern District of N. Y.

J 417

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA

-against-

MILTON PARNESS,
Defendant.

AFFIDAVIT
73 Cr. 750

----------x

STATE OF NEW YORK)
ss.:
COUNTY OF NEW YORK)

MICHAEL ROSEN being duly sworn, deposes and says:

I am the Attorney for the defendant, Milton Parness. I make this Affidavit in support of the defendant's application for an order pursuant to Rule 35 of the Federal Rules of Criminal Procedure reducing and modifying the sentence previously imposed on the defendant by this Court.*

The defendant bases his application on four separate and distinct reasons.

1.) The defendant's exemplary behavior since conviction in the fall of 1973;

2.) The disparity between the sentence imposed upon him and others similarly convicted;

3.) The apparent illegality and unconstitutionality of the sentencing procedure used against him in the instant case, which procedure based as it was on rank [illegible] defendant his constitutional right to confrontation; and

* In making the instant Motion, I do not concede any facts relating to the issues raised in defendant's Motion for a new trial. This Motion is made at the present time so the record may be adequately protected.

4.) Evidence of a newly discovered nature which casts grave doubt on the defendant's guilt.

Prior to an analysis and discussion of the above stated reasons, we believe it would be appropriate to briefly summarize the procedural history and background of the instant case.

PROCEDURAL HISTORY

On or about August 2, 1973, Superseding Indictment 73 Cr. 750 was filed in the Southern District of New York. That Indictment charged the defendants Milton Parness and his wife with acquiring control of three separate enterprises through a pattern of racketeering in violation of Title 18, United States Code, Sections 1961, 1962(b), 1963 and 2(counts one through three inclusive). Counts four through seven, charged Mr. & Mrs. Parness with four violations of Title 18 United States Code, Section 2314 and 2. These offenses allegedly constituted the individual acts of racketeering, forming the pattern of racketeering charges in counts one through three.

At the conslusion of the Government's case, counts two, three and seven were dismissed. At the conclusion of all the evidence, the defendant was convicted by a jury of counts one, four, five and six.

On December 7, 1973, the defendant was sentenced by the Court to a term of imprisonment of ten years on each count to run concurrent and fined $25,000.00 on count one and $10,000.00 on each of the other counts.

The above sentence was imposed after a hearing pursuant to Title 18 United States Code, Section 3577, to have the defendant sentenced as a dangerous special offender. Although the Court later declined to find Mr. Parness such an offender, it did, nevertheless, take evidence which for the most part was based on speculation, illegally [illegible]lized evidence and rank hearsay.

On June 27, 1974, the United States Court of Appeals for the Second Circuit, affirmed the judgment of conviction. (United States v. Parness, 503 F. 2d 430 (2nd Cir., 1974). Certoirari was denied on January 13, 1975, ___ U.S. ___.

On or about January 22, 1975, the defendant moved before the Hon. Dudley B. Bonsal for an order pursuant to Rule 33 of the Federal Rules of Criminal Procedure, granting the defendant a new trial on the grounds that the testimony of the prosecution's witness in chief was false as to material matters; that there existed evidence of material facts not previously presented and which require vacation of the judgment of conviction and sentence; and that at the time of trial, the United States Attorney knew or should have known of material evidence favorable to the defendants which was not disclosed or made available to them.

On January 28, 1975, the defendants submitted a Supplemental Affidavit in support of its motion for a new trial disclosing therein that the defendant had subjected himself to a polygraph examination which indicated that the defendant

told the truth when he responded to questions regarding the alleged offenses.

Thereafter, in early March, 1975, the defendants submitted Supplemental Affidavits in support of their motion for a new trial based upon the added reason that the Government had withheld evidence of promises made to their witness in chief in return for his testimony.

Thereafter, on or about March 4, 1975, the Government submitted an Affidavit in opposition to the defendants' Motion. Approximately one week later the prosecution submitted a Supplemental Affidavit in opposition to the defendants' Motion for a new trial.

Thereafter, on or about March 24, 1975, the defendant submitted written communication to the Court advising the Court that in addition to the reasons already described in its Motion for a new trial, they had learned that a significant amount of Jencks material had been withheld by the Government during the course of the trial. This matter is now sub judic before this Court.

DEFENDANT'S BACKGROUND AND BEHAVIOR SINCE HIS CONVICTION

Milton Parness is presently 57 years old, and upon information and belief has two prior convictions which are in excess of ten years old and related to the interstate transportation of stolen securities. Although treated separately, I am informed that both convictions arose out of the same course of conduct in 1962.

The defendant was born in Newark, New Jersey on April 21, 1918, the son of Fanny Parness and Sam Parness. His father died in 1965 and his mother, now 77 years old, resides in Linden, New Jersey with the support of her son.

After attending grade school in Newark, Mr. Parness attended and graduated from Hamilton Junior Highschool and Thomas Jefferson Highschool in Elizabeth, New Jersey.

After being honorably discharged from the Navy in 194[illegible], he worked with his father in their family business in Elizabeth, New Jersey, from 1946 through 1960. During his tenure in the family business, he worked his way up from truck driver to salesman and finally to sales manager. I am informed that in 1964, the business was sold.

As the Court is aware, the defendant spent the years up to 1969 in Federal custody. After release, he was employed by Alprod Aluminum Products in Linden, New Jersey before entering the travel business.

Although Mr. Parness staunchly maintains his innocenence for the offenses for which he was convicted, he nevertheless has, since the time of his conviction, lead an exemplary life while enlarged on bail. Shortly after his conviction, Mr. Parness obtained employment as a salesman for a telephone equipment and installation firm called Interconnect Resources, with offices at 10 East 53rd Street, New York City.

J 422

I am informed that Mr. Parness uses the income from his employment to help support his wife, two step-children and his aged mother. I am further informed that his employment record at Interconnect Resources is excellent. (Annexed hereto as defendant's Exhibit A1 is a letter of commendation from Mr. Parness' employer.)

Thus despite his two prior convictions, we respectfully submit that this case presents a most appropriate occasion for this Court to exercise its discretion to modify the sentence imposed herein. This conclusion is strengthened when one juxtaposes the totality of circumstances and facts before this Court with the guidelines enunciated in the American Bar Association's Projects on Minimum Standards for Criminal Justice Relating to Sentencing Standards and Procedures (hereinafter American Bar Association's Standards.)

The American Bar Association's Standards, where pertinent, recommend that the sentencing court in most cases (excluding murder or treason) impose "a sentence of probation or a similar sentence not involving confinement". American Bar Association's Standards, Section 2.3(a).

The basic principle underlying the above recommendation is the rationale that:

> "Removing a man completely from a community may impede his successful reintegration and the atmosphere, associations, and stigma of imprisonment may reinforce his criminality." The President's Commission on the Challenge of Crime in a Free Society, The Courts 15 (hereinafter referred to as The President's Commission).

While we do not suggest that the sentence herein imposed be reduced to probation, we do suggest that the sentence of 10 years previously imposed by this Court was unduly harsh. We believe the sentence imposed fails to take into consideration that the correctional strategy that presently seems to hold the greatest promise is that of reintegrating the offender into the community. This means avoiding as much as possible the isolating effects of a lengthy commitment to an institution. According to the American Bar Association's Standards Projects, a long term of imprisonment, such as was imposed here, is both unjust to the individual and counterproductive to society. (See American Bar Association Standards Page 67, see also the Model Penal Code Section 7.01.)

Annexed hereto as Exhibits __ through __ are letters from the defendant's family and community members asking this Court to modify the sentence heretofore imposed. The letters are self-explainatory but possess a common thread, to wit, that his family will suffer without his presence, and both society and his family will best be served by a reduction of his sentence.

It is respectfully submitted that applying the specific criteria of the American Bar Association Standards to the facts in the instant case, the conclusion becomes inescapable that no useful purpose would be accomplished by keeping the defendant incarcerated to the extent required by the sentence imposed. To uphold that sentence would be

to uphold the view of a prison sentence as a punitive end in itself, a theory which has long ceased to be a major function of the sentencing process.

THE DISPARITY OF THE DEFENDANT'S SENTENCE AS COMPARED TO OTHERS CHARGED WITH THE SAME OR SIMILAR CRIMES

The disparity of sentences imposed both within this district and throughout the Country is a problem well known to this Court. (See for example "Court Study Underscores Disparity in Sentencing", N. Y. Law Journal, September 9, 1974.) Moreover, the disparity in imposing radically different sentences on different defendants charged with the same or similar offenses is readily acknowledged to be one of the major flaws within our criminal justice system.

It is the defendant's contention that the sentence imposed upon him is excessive when compared with other defendants charged with the same or similar offenses or other defendants involved in even greater offenses.

The fact that Mr. Parness' sentence was excessive when compared to others similarly situated is bolstered by the recent study on sentencing disparity made in the Second Circuit. The study entitled "The Second Circuit Sentencing Study", a Report To The Judges Of The Second Circuit, was undertaken by a 16 member committee under the auspices of the Chief Judge of the Court of Appeals.

As this Court may be aware, the study involved 20 hypothetical cases involving a variety of offenses. In each case, a pre-sentence report was prepared and furnished to each U. S. District Judge sitting in the Second Circuit. The District Court Judges were then asked to impose what they believed to be an appropriate sentence in each of the cases. Although the sentences imposed in each of the 20 cases by the various Judges was significant in showing the disparity of sentences within the Circuit, two cases involved in the study are particularly appropriate to the instant application.*

The first was designated Case #17 in the Study. It involved the interstate transportation of stolen securities in violation of 18 United States Code, Section 2314. The pre-sentence report indicated that the defendant was convicted by a plea, was between 26 and 40 years old and had one prior conviction. The report also indicated no narcotics use and current employment as a salesman. The sentencing options open to the Court were 10 years and/or a $10,000.00 fine. (See Sentencing Study Appendix A-48 through A-49, a copy of which is annexed hereto as defendant's Exhibit # __ .)

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* It should be noted in this connection that although the anti-racketeering section was not included in the 20 cases, offenses which were similar to those which made up the pattern of racketeering activity in the instant case were included, e.g. interstate transportation of stolen securities and mail and wire fraud.

Of the 46 Judges responding, the most severe sentence imposed by two Judges was imprisonment for 3 years. The least severe sentence imposed was 1 year probation. 43 Of the 46 Judges responding, imposed no jail time at all and probation of 54 months or less. The most frequent sentence imposed was 3 years probation. No Judge imposed even close to the maximum sentence, notwithstanding the defendant's prior record. A comparison of that case with the one at bar indicates the draconian tenor of the sentence imposed by this Court.

The second case, designated Case #8 in the Study, involved the offense of mail fraud under 18 United States Code, Section 1341 and 1342. The pre-sentence report indicated that the defendant was convicted of two counts by his plea of guilty, was between 22 and 25 years old and had one prior conviction. The report also indicated no narcotics use and current employment as a truck driver. The defendant was eligible for sentencing as a young adult defendant.

Of the 41 Judges responding, the most severe sentence was incarceration for a period of 2 years and 3 years probation. The least severe was 12 months probation. None of the Judges imposed a sentence closely approximating the maximum sentence. Again, a comparison of Case #8 to the instant case reveals the unduly harsh sentence imposed by this Court. In fact, the only studies in the report in which the defendants were treated so harshly involved extortion of credit transactions of individuals with excessive prior criminal records and sentencing exposure in excess of 50 years; bank robbery after three prior convictions and additional bank robbery cases pending; and sale of hard

drugs with a prior record of 7 convictions. (See Case Studies 1 through 3 inclusive, Sentencing Study Appendix A-3 through A-11)

Based on the study, it is crystal clear that with all due respect to the Court, the sentence imposed on the defendant was exceedingly harsh and should be modified.

THE APPARENT ILLEGALITY AND UNCONSTITUTIONALITY OF THE SENTENCING PROCEDURE USED IN THE INSTANT CASE UNFAIRLY BIASED THE TRIAL COURT.

It will be recalled that following his conviction, Mr. Parness was the subject of a hearing instituted by the United States Attorney pursuant to Title 18 United States Code Section 3577. During the course of that hearing, the Government introduced an out-of-context tape recording which was the product of an illegal listening device, made 12 years prior to Mr. Parness' conviction; as well as a series of rank hearsay statements proportedly made by unproduced witnesses to an agent involved in the prosecution of the instant case.

The defendant is well aware of the provisions of Section 3577, Title 18 United States Code which states that:

> "No limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence."

It is the defendant's position, however, that the language of Section 3577 must be read within the parameters of the effective assistance of counsel, confrontation clauses of the 6th Amendment to the Constitution of the United States; and

search and seizure provisions of the 4th Amendment of the Constitution of the United States. It must be conceded that although Congress intended to give the District Court a wide latitude in obtaining information for sentencing, that latitude connot transcend the prohibitions of the Constitution.

There is no longer any question that a defendant is entitled to the effective assistance of counsel at all critical stages of the proceedings against him including sentencing. (Mempa v. Rhay, 389 U.S. 128, 88 S.Ct. 254, 228; Townsend v. Burke, 334 U.S. 736.)

Moreover, a procedure which lends itself to misinformation or misunderstanding based upon rank hearsay, the denial of the right of confrontation and illegally seized material renders, we submit, the entire sentencing procedure invalid as a violation of due process. (See United States v. Meyers, 374 F. 2d 707 C.A. 3, 1967.)

In Meyers, the 3rd Circuit citing the Townsend opinion held:

> "*** Consequently, on this record we conclude that, while disadvantage by lack of counsel, this prisoner was sentenced on the basis of assumptions concerning his criminal record which were materially untrue. Such a result, whether caused by carelessness or design, is inconsistent with due process of law, and such a conviction cannot stand.
>
> Recognizing that Townsend rests upon this dual basis, we nevertheless think that the facts of the present case entitle the appellant to relief. The Supreme Court saw the wrong incurred as careless or designed sentencing on the basis of materially untrue facts and assumed that such injustice would normally be prevented by the presence of counsel. This, of course, is premised upon the effective protection by counsel at this juncture, not merely his physical attendance." (Emphasis supplied.)

In the instant case, the procedure used, involving as it did the use of illegally obtained evidence, hearsay with its lack of confrontation, was as tainted as if it were a pre-sentence report containing erroneous information as to a prior criminal record or active involvement in other [illegible]. (United States v. Weston, 448 F. 2d 626 (9th Cir. 1971).)

In short, had the defendant been afforded his constitutional right to due process as enunciated in Brady v. Maryland, 373 U.S. 3, his right of confrontation pursuant to the 6th Amendment of the Constitution, the procedure used would have passed constitutional muster. Failure to include those rights in the procedure used was tantamount to allowing the sentencing court to rely upon evidence which violated the defendant's constitutional rights.* (See United States v. Tucker, 404 U.S. 443, 1972.)

We respectfully submit that in order for Section 3577 to pass constitutional muster, the constitutional safeguards described above must be insured. In the instant case, there was a failure to insure such safeguards; and consequently, the Court considered inappropriate and improper information.

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* There is no question that the sentencing court did, in fact, rely on this information. See transcript of hearing dated December 7, 1973 at page 68.

Consequently, we respectfully suggest that the sentence heretofore imposed by the Court be modified by omiting from the Court's consideration those matters developed at the December 7, 1973 Hearing.

EVIDENCE OF A NEWLY DISCOVERED NATURE

In several post trial motions, the defendant has sought a new trial based upon newly discovered evidence of prosecutorial misconduct. We do not intend to belabor this record by repeating and realleging each of the grounds raised by the defense. We do, however, suggest that a review of those grounds (which are now sub judice before the Court) is relevant in considering the defendant's motion to reduce his sentence. We especially draw the Court's attention to the results of a lie detector test performed by an independent and highly prestigious firm; and the defense's offer to make Mr. Parness available to the Government for testing of their own.

WHEREFORE, for all of the above described reasons, your deponent respectfully prays that this Court enter an order reducing and modifying the defendant's sentence and for such other and further relief as this Court may deem just and proper.

MICHAEL ROSEN

Sworn to before me, this
12th day of May, 1975

Case #17 - Description and Notes

[illegible]

Offense: Interstate transportation of stolen securities (18 U.S.C. § 2314).
Number of counts: One.
How convicted: Plea.
Age at conviction: 26-40.
Sex: Male.
Prior record: One conviction (other than traffic), no other arrests, no incarceration; offense not similar to the current offense.
Narcotics use: None reported.
Current employment: Salesman.
Sentencing options: Ten years and/or $10,000.

Additional Information Requested

Two judges indicated that they would need more information before sentencing. One committed for observation under 18 U.S.C. § 4208(b); the other sought information on the defendant's cooperation and a recommendation from the United States Attorney.

J 432

Case #17 - Rank List of Sentences

Description of Sentences

Months prison	Months prob'n	Fine ($)	Special authority	Number	Notes
36	--	--	--	2	
24	--	--	--	1	
12	--	--	--	2	
6	54	--	--	1	
6	36	--	--	2	
6	24	--	--	2	
6	18	--	--	1	
6	--	--	--	1	
3	60	--	--	1	
3	36	--	--	1	
3	24	1,000	--	1	
2	36	--	--	1	
1	36	--	--	1	
--	60	--	--	1	
--	48	--	--	2	
--	36	2,000	--	1	
--	36	--	--	14	
--	24	--	--	9	
--	18	--	--	1	
--	12	--	--	1	

Number of sentences ranked 46

Case #17 - Description and Notes

Case Characteristics

Offense: Interstate transportation of stolen securities (18 U.S.C. § 2314).
Number of counts: One.
How convicted: Plea.
Age at conviction: 26-40.
Sex: Male.
Prior record: One conviction (other than traffic), no other arrests, no incarceration; offense not similar to the current offense.
Narcotics use: None reported.
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Case #17 - Rank List of Sentences

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12	--	--	--	2	
6	54	--	--	1	
6	36	--	--	2	
6	24	--	--	2	
6	18	--	--	1	
6	--	--	--	1	
3	60	--	--	1	
3	36	--	--	1	
3	24	1,000	--	1	
2	36	--	--	1	
1	36	--	--	1	
--	60	--	--	1	
--	48	--	--	2	
--	36	2,000	--	1	
--	36	--	--	14	
--	24	--	--	9	
--	18	--	--	1	
--	12	--	--	1	

Number of sentences ranked 46

J 435

JNR:nc
n-495

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	
-v-	:	AFFIDAVIT IN OPPOSITION TO
MILTON PARNESS and BARBARA PARNESS,	:	DEFENDANTS' MOTION FOR A NEW TRIAL
Defendants.	:	73 Cr. 750

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

JOEL N. ROSENTHAL, being duly sworn deposes and says:

I make this second supplemental affidavit in opposition to the motion for a hearing contained in the letters submitted on behalf of defendants Milton and Barbara Parness, by their lawyers, dated March 24 and 25, 1975 and in the motion for reduction of sentence or a new trial made on behalf of Milton Parness, dated May 12, 1975.

I. Letters of March 24 & 25

1. Annexed to counsels' letters of March 24 and 25 were copies of various correspondence written by Alan Coberman which were in the possession of the government but not turned over to the defense at trial. Defendants claim that these letters were either 3500 or Brady material which should have been turned over to them, and that the government's failure to do so warrants a hearing to determine whether a new trial should be granted. These letters and those annexed to this second supplemental affidavit were neither 3500 nor Brady material, and were not required to be turned over.

n-495

2. Apart from their claim that the government had an undisclosed arrangement with Goberman to recover $60,000 seized from Sam Norber, the defendants point to nothing in Goberman's letters which directly relates to the subject matter of his direct testimony.

3. With respect to the Brady claim, as the annexed affidavits of Harold F. McGuire, John Dowd, Michael Pollock and R.J. Campbell (Exhibits 1-4) and the record of the trial itself demonstrate, the suggestion that Goberman and the prosecution had an agreement to "recover" the $60,000 (or the hotel, for that matter) for Goberman is patently frivolous. If such an agreement existed, of course, defense counsel would have been entitled to know of it. Under these facts there was no such agreement and the Government did not fail to honor its Brady obligations.

4. The utter lack of any "deal" between Goberman and the government is apparent initially from the letters themselves and the circumstances surrounding their "discovery" by defense counsel. As Mr. Rosen's letter states "the documents speak for themselves", and indeed they do. The letters clearly reflect that Goberman was furnished with the standard IRS claim form, and left to pursue the recovery of the monies through his own devices. Thus, Goberman's writings evidence a continued anger at the failure of the Internal Revenue Service to process his claim for "his" money and the prosecution's failure to supply him with copies of transcripts of his interviews and copies of the records he turned over, both of which Goberman insisted were necessary for prosecuting his claim with the Internal Revenue Service (e.g. letters dated 1/11/73; 3/7/73; 3/13/73; 3/28/73; 6/20/73; 6/25/73.) Nowhere in the letters does Goberman even intimate that the government has promised to assist, or

K-495

is assisting him (any more than supplying him with the claim form) in the recovery of the $60,000. What Goberman does make clear is that he feels he has been promised, but not paid, his travel expenses in connection with his interviews.

5. I have not seen the Court file in Goberman v. United States of America, 73 Civ. 2669, in the Eastern District of Pennsylvania, in which Goberman sued for the recovery of the $60,000, from which Messrs. Pollock and Rosen have culled the documents annexed to their respective letters of March 24 and 25. Presumably, all documents contained in that file of any relevance whatsoever to the instant motions have been submitted by defense counsel. It is noteworthy that defendants have failed to submit any document from that litigation in which Allan Goberman represents that the government promised to "recover" the $60,000. Had any such representation been made to Goberman by any agent of the government, it most certainly would have surfaced in Goberman's lawsuit against the government for the money the defense now claims the government promised to get "back" for him. The nonexistence of such a document confirms that Goberman had no belief that such a promise was ever made. Moreover, the facts that Goberman's claim was denied, and that he was forced to sue the government, and I am advised, lost that action, fail to lend any support to Parness' claim.

6. During the latter part of April, 1975 I had occasion to speak with Allan Goberman when he called me to request that he be furnished with a copy of the trial transcript. During the course of our conversation I advised him of the substance of the claim advanced by the defendants as the basis for their new trial motions. Shortly after

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our conversation, I received the unsolicited letter from Mr. Goberman annexed hereto as Exhibit 5. This letter, of course, confirms the statements contained in the affidavits of Dowd, McGuire, Campbell and Pollack that no promise was made to Goberman that his hotel or the money would be "returned" to him by the government or through the government's intervention or assistance.

7. The record of the trial also amply demonstrates Goberman's state of mind; references to those portions of the record are contained in my affidavit dated March 4, 1975. No more dramatic illustration of Goberman's antipathy towards the government, and absence of any promises, can be had.

8. I have also been advised that Goberman's antipathy towards the government continues. Thus, Goberman is presently waging two additional actions against the government, one for the breach of the alleged promise to pay his claimed $1300 in travel expenses, the other a 7-1/2 million dollar invasion of privacy action arising out of the prosecutions and convictions of him for tax evasion and filing false statements. Despite his apparent litigiousness, Goberman has yet to sue upon the promise the defendants claim the government made to him to "return" the $60,000 or to assist in the recovery of his hotel.

9. Should this Court find that although no promises or deals of the kinds suggested by defendants existed, that, nevertheless, Goberman's letters to the prosecutors and agents do constitute 3500 or Brady material, no new trial or hearing is warranted.

10. John Dowd and Harold McGuire were responsible for the preparation and conduct of the trial; Mr. Dowd was

n-495

the prosecutor responsible for the collection and distribution of 3500 and Brady materials. As John Dowd's affidavit, Exhibit 6, demonstrates, the government's failure to turn these letters over was inadvertent, and not a deliberate suppression of evidence favorable to the defense.* Accordingly, the test which this Court must apply in determining whether a new trial should be granted is set out in United States v. Sperling, 506 F.2d 1323, 1333 (2d Cir. 1974) as follows:

> "The test is whether 'there was a significant chance that this added item, developed by skilled counsel...., could have induced a reasonable doubt in the minds of enough jurors to avoid a conviction'." (citations omitted).

11. No such showing can be made by defendants here. None of these letters contain anything inconsistent with Goberman's trial testimony or the extensive materials turned over to the defense pursuant to § 3500. Defendants' moving papers are devoid of any showing of how Goberman's credibility would have been further impaired, or the cross-examination altered in any respect by the use of any of the materials not turned over. This is so because, in large part, the letters are cumulative of other Goberman 3500 material furnished to the defense. Thus, references to the "Fish-Weinberg" matter were fully detailed in Goberman's lengthy tape recorded interviews with government agents, turned over as GX 3501 and 3507.** Indeed, the transcript

* Copies of the letters contained in the administrative file referred to in Mr. Dowd's affidavit are annexed hereto as Exhibit 7.

** These tapes exceed eight hours' playing time (Tr. 567). Transcripts of these tape recordings have recently been prepared under John Dowd's supervision, and any references to the contents of these tapes is based upon my review of these transcripts. Copies of these complete transcripts are annexed hereto as Exhibit 8.

of Goberman's description of his dealings with Fish and Weinberg, who they were and Goberman's views as to why the government should "pursue" them, take up in excess of 14 pages of transcript.

12. Goberman's claim for reimbursement of his expenses in connection with his travels are not only mentioned in the tape recorded conversations, but Goberman was also cross-examined about it (Tr. 232).

13. Finally, with respect to the $60,000 seized from Sam Norber, Goberman's letters merely evidence his claim that the money was rightfully his; not that there was an arrangement with the government which would insure the "return" of the money to Goberman. That Goberman was claiming the $60,000 can come as no surprise to the defendants. The Court will recall that the defense marked for identification (Defense Ex. M, GX 3506) an affidavit, dated February 2, 1971, submitted by Goberman in an effort to forestall Holtzer's foreclosure. In this affidavit Goberman lays a claim to Norber's cash, then held by the I.R.S., and swears that "I am making a claim for [the money]." Goberman was cross-examined in detail about this affidavit (Tr. 407, et seq., 475-477). Indeed, the entire matter of the $60,000 was irrelevant to Goberman's testimony. The fact that Goberman claimed the money only supported his basic contention that he was not getting the money to which he was entitled from Parness.

14. In sum, absent any promise to Goberman that the government would secure the Sam Norber $60,000 for him, or would assist him in the recovery of his hotel, defendants cannot demonstrate any matters which would, in counsel's hands, have been capable of producing a reasonable

n-495

doubt* in the minds of enough jurors to have avoided the guilty verdict.

II - May 12, 1975
Motion to Modify and
Reduce Parness's Sentence

15. By his motion of May 12, Parness seeks to have his sentence reduced or vacated based upon a number of factors:

A) His alleged "exemplary" behavior since his conviction in September, 1973;

B) The disparity between his sentence and sentences of others similarly convicted;

C) The alleged "illegality and unconstitutionality" of the sentencing procedure used by the Court herein and;

D) allegedly "newly discovered" evidence described in counsels' earlier affidavits.

16. The government will not attempt to controvert Parness' claim that his behavior since his conviction has been examplary. To the extent that such behavior is relevant, the government submits that it will be most relevant to the Parole Board when considering Mr. Parness's eligibility for release from prison and the likelihood of his "continued" rehabilitation.

17. Parness's claim that his sentence was unconscionably long as compared with others charged with the

* The Court, in determining whether a different result would have resulted from the use of the material contained in Goberman's letters, must consider the significance of these items in the context of the other items elicited at trial tending to impeach Goberman's credibility. Thus, the court will recall that among other things Goberman was a thrice-convicted felon (perjury, tax evasion, filing false statements), and that his trial testimony was twice contradicted by subsequent stipulations of the Government. Defense counsel made much capital of these facts.

n-495

same or similar crimes, is utterly unsupported by any evidence in the record. The defendant only points to a study of hypothetical sentencing by District Judges and not to sentences of any other offender with Parness' criminal background or convicted of the same offenses as Parness.

18. Defendant submits nothing new with respect to the allegedly "newly discovered" evidence which he claims casts doubt on his guilt. The government has already responded to this claim by this affidavit and its affidavits of March 4, and March 24, 1975, and will not elaborate further herein.

19. Parness' final contention is that the procedure employed at his sentence deprived him of effective assistance of counsel. Specifically, Parness claims that the introduction of hearsay and the transcript of an allegedly illegally recorded conversation were used against Parness to his disadvantage.

20. Parness does not contend that any misinformation was contained in the materials submitted to the District Judge at the time of Parness' sentence. Accordingly, no effort is made by the defendant in his affidavit to show in what ways Parness might attempt to refute those few matters elicited in what he claims to be an illegal fashion at his sentence. Secondly, and more importantly, at no time did Parness or his counsel request that they be given a continuance to contradict anything contained in the tape recording or in the testimony of the agent who testified at the hearing. The record is replete with representations by defense counsel that he was prepared to proceed with the hearing despite the hearsay and the allegedly illegally

n-495

recorded conversations. E.g.: Hearing 12/7/73 pp. 20, 29, 51, 54. Indeed, the on person who could have refuted any of these matters or explained them was the defendant himself, and despite the invitation of the Court, Parness specifically declined to address these issues. (Hearing, 12/7/73, p. 78). Indeed, the defendant only now, for the first time, claims that the sentencing procedure was improper.

21. The Court will recall that the government sought to have Parness declared a "dangerous special offender" pursuant to the provisions of Title 18, United States Code, Section 3575, and that the Court declined to declare Parness such a dangerous special offender. Parness was given notice of the hearing and given an opportunity to inspect the presentence report "sufficiently prior to the hearing as to afford a reasonable opportunity for verification." Title 18, United States Code, Section 3575(b). Had Parness been sentenced pursuant to the provisions of the statute, he could have been imprisoned for 25 years (3575(b)). Indeed, all the information presently complained of was submitted by the government in connection with its application to have Parness declared a dangerous special offender.

22. The Second Circuit has held that possession of the fullest information possible concerning the defendant's life and character is highly relevant, if not essential, to the selection of an appropriate sentence by the sentencing Judge. No such information should be hidden from him. United States v. Needles, 427 F.2d 652, 655 (2nd Cir. 1973). Consideration of hearsay evidence by the district judge in connection with the imposition of sentence has been approved in this circuit, United States v. Rosner 485 F.2d 1213, 1231 (2d Cir. 1973), cert denied, 417 U.S. 950 (1974). The

n-495

only question is whether the defendant had an adequate opportunity to correct any misinformation offered by the Government or in the presentence report. United States v. Rosner, Id. There is no claim that any of the information was incorrect, and the person who could have "refuted" the evidence, Milton Parness, was standing right in court. The Supreme Court has repeatedly emphasized that modern concepts favoring individualization of punishment have made it necessary that a sentencing Judge not be denied an opportunity to obtain pertinent information by restrictive rules of evidence developed for application only at trial. Williams v. New York, 337 U.S. 241, 247 (1949). Williamsv. Oklahoma, 358 U.S. 576, 584 (1959). Title 18, United States Code, Section 3577 mandates this:

> No limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence.

23. Parness was afforded the opportunity to cross-examine the agent and to correct any misinformation contained in his testimony or in the transcript of the overheard conversation. At no time did counsel or the defendant make any effort to request additional time to rebut or supplement any of the information contained in a presentence report, the agent's testimony or the transcripts of the overheard conversations; counsel has yet to suggest anything that is even arguably incorrect in the materials contained in the presentence report or adduced at the hearing. It follows therefore that Parness' sentence was legal and, indeed, fair and no reason based upon the sentencing proceedings has been shown why this Court should vacate or

modify the sentence of 10 years imprisonment heretofore imposed.

It is respectfully submitted that all of the defendant's motions herein be denied.

Joel N. Rosenthal

JOEL N. ROSENTHAL
Assistant United States Attorney

Sworn to before me this
15th day of July, 1975

Gloria Calabrese

GLORIA CALABRESE
Notary Public, State of New York
No. 24-0538340
Qualified in Kings County
Commission Expires March 30, 1977

J 446

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	
v.	:	AFFIDAVIT
MILTON PARNESS and BARBARA PARNESS,	:	
Defendants.	:	

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

HAROLD F. McGUIRE, JR., being duly sworn deposes and says:

1. I am an attorney now in private practice in New York City. During 1973 I was an Assistant United States Attorney in the office of the United States Attorney for the Southern District of New York, and was in charge of the prosecution of this case during the latter part of the grand jury investigation, during the entire trial, and for some time after the trial until I left government service. I make this affidavit in response to certain post-conviction motions which I am informed have been made by the defendant Milton Parness.

2. I am informed that Mr. Parness has sought various forms of post-conviction relief on the ground that the prosecution, before and during the trial, withheld information which should have been produced to the defense on the subject of agreements between the government and the witness Allan Goberman with respect to payments by the government to Goberman and with respect to

Ex. 1

assistance to Goberman by the government in pursuing certain civil claims which he asserted against the government and against private individuals.

3. Since I was not in charge of, or associated with, the entire investigation of this matter, I cannot comment on matters before the spring of 1973 except to say that I never saw or heard of any evidence that the government or any of its representatives agreed to furnish anything of value to Mr. Goberman other than the reimbursement of legitimate travel expenses and witness fees.

4. During the period when I was in charge of this prosecution, there were several occasions on which Mr. Goberman approached me, as the principal government official connected with the case at that time. As I recall it, he asked for my assistance in recovering a sum of approximately $60,000 which he alleged belonged to him and which had been seized from a third party by the name of Sam Norber when Norber was arrested. Goberman also asked me for assistance in getting back "his hotel", meaning the hotel on the island of St. Maarten which was the subject of the prosecution. Definitively, clearly and unambiguously, I refused every such request and told Goberman that the United States Attorney's Office for the Southern District of New York was in the business of prosecuting crimes, including a crime to which he was a witness, but was not in the business of acting as a collection agent for private parties who believed they had grievances. As I remember it, Mr. Goberman became so angry at these repeated expressions that, very shortly before the trial of this case, he refused his cooperation as a voluntary witness. My reply to this refusal was the use of the government's subpoena power to obtain his testimony at the trial.

J 448

5. So that there can be no possible mistake about it, let me state in the broadest possible terms that at the time Goberman testified as a trial witness, nothing said by me or (to my knowledge) any of my assistants in the prosecution of this case could possibly have led Mr. Goberman to expect any aid from the government -- legitimate or otherwise -- in the prosecution of any civil claim which he might have had. On several occasions, I personally disabused Mr. Goberman in the strongest language of any such expectation. There was no agreement, express or implied, that Mr. Goberman could expect any consideration from the United States Attorney's Office for the Southern District of New York other than the considerations normally available to witnesses in criminal cases.

HAROLD F. McGUIRE, JR.

Sworn to before me this
11th day of July 1975

Bernard J. Rosenthal
Notary Public

BERNARD J. ROSENTHAL
Notary Public, State of New York
No. 24-4503156
Qualified in Kings County
Commission Expires March 30, 1977

J 449

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA, :

- v - : SUPPLEMENTARY AFFIDAVIT

MILTON PARNESS, ET AL. : 73 Cr. 750 DBB

Defendants. :

----------x

CITY OF WASHINGTON)
DISTRICT OF COLUMBIA) SS.:

JOHN M. DOWD, being duly sworn, deposes and says:

1. I am the Attorney-in-Charge of Strike Force 18, Organized Crime and Racketeering Section, Criminal Division, United States Department of Justice, Washington, D. C. I make this supplementary affidavit in response to certain post-trial motions of the defendants.

2. During 1973 I had occasion to communicate with Allan Goberman in connection with the investigation and trial of the above entitled case.

3. Defendant Parness claims through his attorney that agents or attorneys of the United States promised Allan Goberman that the United States would recover $60,000 claimed by Mr. Goberman which had been seized by agents of the Internal Revenue Service. Defendant Parness also intimates that attorneys or agents of the United States promised Goberman that the Government would recover Goberman's property interest in the St. Maarten Isle Hotel Corporation, N.V.

4. I never promised, suggested or represented to Mr. Goberman that the United States would recover or assist in the recovery of his claim for $60,000 from the Internal Revenue Service.

Ex 2

J 450

5. I never promised, suggested or represented to Mr. Goberman that the United States would recover or assist in the recovery of any property interest he had in the St. Maarten Isle Hotel Corporation, N.V.

6. To my knowledge, no agent or attorney of the United States promised, suggested or represented to Mr. Goberman that the United States would recover or assist in the recovery of his claim of $60,000 from the Internal Revenue Service or any property interest he had in the St. Maarten Isle Hotel Corporation, N.V.

JOHN M. DOWD

Sworn to before me this
14th day of July 1975.

Notary Public

My commission expires: March 14, 1980

JNR:rs

J 451

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	
-v-	:	AFFIDAVIT
MILTON PARNESS,	:	73 Cr. 750
Defendant.	:	

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.
SOUTHERN DISTRICT OF NEW YORK)

MICHAEL B. POLLACK, being duly sworn, deposes and says:

I am presently in the private practice of law with offices at 1345 Avenue of the Americas, New York, New York 10019.

Between August of 1970 and February of 1975 I was a special attorney with the Criminal Division of the Department of Justice assigned to the Eastern District of New York. In connection with my duties in that position I had occasion in October of 1971 to travel to St. Maarten, Netherlands Antiles. As a result of this trip upon my return I issued a subpoena returnable November 8, 1971 to one Alan Goberman, a resident of Lancaster, Pennsylvania and a one time owner of the St. Maarten Isle Hotel. Mr. Goberman appeared in the Grand Jury in the Eastern of New York on November 8, 1971.

Subsequent to Mr. Goberman's appearance on this date I had many personal and telephonic conversations with

Ex 3

him relating to the possibility of his testifying for the Government in a criminal prosecution. Some time in 1973 I went with Mr. Goberman to Detroit, Michigan. The purpose of said trip was to have Mr. Goberman confer with agents of the United States Department of Labor regarding certain loan transactions his hotel had had with officials of the Teamsters' Union located in Detroit, Michigan.

Subsequent to this it was ascertained that the violations Mr. Goberman could give testimony about lay within the jurisdiction of a unit with the Department of Justice commonly known as Strike Force 18 headed by one R.J. Campbell. At that time Mr. Goberman and all of his work product were turned over to Mr. Campbell for further debriefing and investigation. The outcome of this process was the indictment in United States of America v. Parness, 73 Cr. 750, in the Southern District of New York. During the period of time while Mr. Goberman was dealing with Mr. Campbell and ultimately with Mr. Campbell and Mr. McGuire of the United States Attorney's Office for the Southern District of New York, he maintained contact with me. Much of his contact, both telephonically and in writing, concerned complaints he had with the way the above-named parties were treating him. Not wishing to be part of a three-party discussion, I had on several occasions attempted to arrange a meeting with all parties present so that Mr. Goberman could air his complaints and have each party respond to the part of the complaint which referred

to them in Mr. Goberman's presence. Such suggestions on my part to Mr. Campbell were always denied as he maintained Mr. Goberman was his witness and he would handle him as he saw fit.

During my conversations with Mr. Goberman, subsequent to my having turned him over to Mr. Campbell, he mentioned the sum of $60,000 recovered from an individual identified by him as Sam Norber which he claimed represented funds due the casino at the St. Maarten Isle Hotel by persons that Mr. Norber had arranged junkets for to the hotel. I at no time told, suggested or advised Mr. Goberman that this money would be returned to him. All questions relating to this claim of Mr. Goberman's were referred by me back to Mr. Campbell. Moreover, at no time did I promise, represent or suggest to Mr. Goberman that the Government would recover his Hotel and return it to him.

MICHAEL POLLACK

Sworn to before me this
17th day of July, 1975

JOAN BICCI
Notary Public, State of New York
No. 31-4510575
Qualified in New York County
Commission Expires March 30, 19...

J 454

COUNT OF JACKSON)
)
STATE OF MISSOURI)

AFFIDAVIT

COMES NOW Robert J. Campbell, an attorney practicing law in Kansas City, Missouri and swears to and affirms the truth of the following:

1. That during his employment with the U.S. Department of Justice, as Attorney-in-charge of Strike Force 18 in Washington, D.C., he had occassion to supervise and participate in a criminal investigation of Milton Parness which ultimately led to Mr. Parness' indictment in the Southern District of New York and the District of New Jersey;

2. That in connection with the above investigation he and agents and attorneys under his supervision and control interviewed Alan Goberman of Lancaster, Pennsylvania and received information from Goberman which implicated Parness in several federal crimes;

3. That to the best of his present recollection neither he nor, to his knowledge, any other federal employee ever intimated, suggested, represented or promised to Goberman that the U.S. Government would in any way aid him in recovering his hotel and casino in St. Maarten, Netherland Antilles, from Parness;

4. That to the best of his present recollection neither he nor, to his knowledge, any other federal employee ever intimated, suggested, represented or promised to Goberman that the U.S. Government would turn over to him $60,000 confiscated from one Sam Norber in New York City;

5. That when asked by Goberman for help in obtaining possession of the $60,000, affiant, as he would for any citizen with a similar problem, furnished Goberman with an I.R.S. Form 843 (claim for refund) with which to make a claim for the money through proper channels. But took no part in helping Goberman fill out the form or in encouraging any I.R.S. employee to act affirmatively with respect to the claim; in fact, affiant is informed that such claim was subsequently denied.

EX. 4

J 455

Further affiant saith not.

Robert J. Caylor
Affiant

Subscribed and sworn to before me
this 15th day of July, 1975.

Patricia A. Gillespie

My Commission Expires May 1, 1979

J 456

COUNT OF JACKSON)
)
STATE OF MISSOURI)

AFFIDAVIT

COMES NOW Robert J. Campbell, an attorney practicing law in Kansas City, Missouri and swears to and affirms the truth of the following:

1. That during his employment with the U.S. Department of Justice, as Attorney-in-charge of Strike Force 18 in Washington, D.C., he had occassion to supervise and participate in a criminal investigation of Milton Parness which ultimately led to Mr. Parness' indictment in the Southern District of New York and the District of New Jersey;

2. That in connection with the above investigation he and agents and attorneys under his supervision and control interviewed Alan Goberman of Lancaster, Pennsylvania and received information from Goberman which implicated Parness in several federal crimes;

3. That to the best of his present recollection neither he nor, to his knowledge, any other federal employee ever intimated, suggested, represented or promised to Goberman that the U.S. Government would in any way aid him in recovering his hotel and casino in St. Maarten, Netherland Antilles, from Parness;

4. That to the best of his present recollection neither he nor, to his knowledge, any other federal employee ever intimated, suggested, represented or promised to Goberman that the U.S. Government would turn over to him $60,000 confiscated from one Sam Norber in New York City;

5. That when asked by Goberman for help in obtaining possession of the $60,000, affiant, as he would for any citizen with a similar problem, furnished Goberman with an I.R.S. Form 843 (claim for refund) with which to make a claim for the money through proper channels. But took no part in helping Goberman fill out the form or in encouraging any I.R.S. employee to act affirmatively with respect to the claim; in fact, affiant is informed that such claim was subsequently denied.

EX. 4

J 457

Further affiant saith not.

Roland J. Caylor
Affiant

Subscribed and sworn to before me
this 10th day of July, 1975.

Patricia A. Gillespie

My Commission Expires May 1, 1979

717-872-2591 J 458

ALLAN N. GOBERMAN
P. O. Box 1578
LANCASTER, PA. 17604

APRIL 30, 1975

JOEL ROSENTHAL ESQUIRE
ASSISTANT U.S. ATTORNEY
UNITED STATES DEPARTMENT OF JUSTICE
#1 ST. ANDREWS PLAZA
NEW YORK, NEW YORK, 10007

RE 73 Cr 750
USA -v- PRINCESS

DEAR MR. ROSENTHAL:

I WANT TO GO ON RECORD WITH YOU AND YOUR DEPARTMENT, AS FOLLOWS.

REPRESENATIVES OF THE UNITED STATES OF AMERICA - IN AND THRU THE UNITED STATES DEPARTMENT OF JUSTICE MADE (2) TWO PROMISES TO ME, BEFORE THE TRIAL, IN THE ABOVE.

PROMISE #1 ... IF I ASKED FOR PROTECTION FROM PHYSICAL HARM FOR MY FAMILY AND/OR MYSELF, I WOULD RECEIVE IT ...

PROMISE #2 .. ANY OUT OF MY POCKET EXPENSES INCURRED IN TRAVELING UNDER SUPPOENA AND/OR OTHERWISE INCURRED IN TRAVELING FOR DEPOSITIONS ETC .. WOULD BE REIMBURSED TO ME.

NOW .. I GIVE YOU THE RESULTS RE: THESE "PROMISES" ...

"Ex 5"

717-872-2591

JOEL ROSENTHAL ESQUIRE

J 459

ALLAN N. GOBERMAN
P. O. Box 1578
LANCASTER, PA. 17604

RESULT OF "PROMISE" #1 . .

QUOTE: "MR. McGUIRE, IVE BEEN THREATENED AND I NEED AND WANT PROTECTION" . .

ANSWER QUOTE: "MR. GOBERMAN HAVE THEY SHOT AT YOU AS YET?"

ALSO . . SEE ATTACHED LETTER TO JUDGE BONSAL . .

RESULT OF "PROMISE" #2 . .

I WAS REIMBURSED FOR SOME OF MY OUT OF POCKET EXPENSES . . BUT . . THERE IS STILL OWING TO ME $1,300.00 . . AS I'm ATTEMPTING TO SURVIVE ON MY SOCIAL SECURITY CHECK, I NEED THIS MONEY FOR FOOD AND SHELTER . .

AT NO TIME WAS THERE ANY "DEAL" MADE BETWEEN JUSTICE DEPT. & MYSELF . . AND THE ONLY "PROMISES" MADE WERE THE ABOVE .

THE FACT THAT AFTER THE TRIAL McGUIRE AGREED TO FURNISH ME WITH COPIES OF TRIAL TRANSCRIPT AND/OR TRIAL EXHIBITS . . CERTAINLY . . WOULD HAVE NO BEARING ON BARNESS' TRIAL .

JOEL ROSENTHAL ESQUIRE

717-872-2591

ALLAN N. GOBERMAN
P. O. Box 1578
LANCASTER, PA. 17604

PLEASE TAKE A FEW MOMENTS FROM YOUR BUSY SCHEDULE AND READ THE ATTACHED COPIES OF LETTERS, IN MY ATTEMPT, TO GET THE "1,300.00 YOUR DEPARTMENT OWES ME.

VERY TRULY YOURS

Allan N. Goberman

P.S.. I WOULD LIKE AN ANSWER.

ANG

J 461

LAW OFFICES
ZIMMERMAN & GOING
110 EAST KING STREET
LANCASTER, PA. 17604

BERNARD M. ZIMMERMAN
ROBERT M. GOING
D. PATRICK ZIMMERMAN
H. JOSEPH FLYNN

AREA CODE 717
TELEPHONE 397-4851

September 14, 1973

The Honorable Dudley B. Bonsal
District Judge
United States District Court
Federal Court House
Foley Square
New York, New York

COPY

Dear Judge Bonsal:

I have represented Allan N. Goberman in a number of private matters and in the course of numerous consultations Mr. Goberman has explained to me his involvement in the prosecution of Milton and Barbara Parness which is currently pending before the Court.

Mr. Goberman and I feel that the Court should be aware that he, his wife and his children have been threatened, if he testifies against Mr. and Mrs. Parness. Both Mr. Goberman and I have brought this to the attention of Assistant U. S. Attorney Harold McGuire who has apparently discounted the seriousness of the situation.

Mr. Goberman is quite willing to discuss this matter with the Court in Chambers if that should be deemed appropriate.

Sincerely,

ZIMMERMAN & GOING

H. Joseph Flynn

H. Joseph Flynn

HJF:amp

Copy

J 462

United States Department of Justice

UNITED STATES ATTORNEY
EASTERN DISTRICT OF PENNSYLVANIA
FOURTH FLOOR, U. S. COURTHOUSE
SIXTH AND MARKET STREETS
PHILADELPHIA, PA. 19107

ADDRESS REPLY TO
UNITED STATES ATTORNEY
AND REFER TO
INITIALS AND NUMBER
REJC:MRH:fdd
File No. 74-0939

April 22, 1975

Mr. Allan N. Goberman
P. O. Box 1578
Lancaster, Pennsylvania 17604

Re: Allan N. Goberman vs. United States of America
Civil Action No. 74-941

Dear Mr. Goberman:

At your request, I am providing the addresses of two Affiants in the above-captioned matter:

John M. Dowd, Esquire
Attorney in Charge
Strike Force 18
Organized Crime & Racketeering Section
Criminal Division
United States Department of Justice
Washington, D.C.

Robert J. Campbell
5 Crown Center, Suite 400
2480 Pershing Road
Kansas City, Missouri 64108

Very truly yours,

ROBERT E.J. CURRAN
United States Attorney

BY: Mitchell R. Hankin
MITCHELL R. HANKIN
Assistant U.S. Attorney

COPY

717-872-2591

J 463

ALLAN N. GOBERMAN
P. O. Box 1578
LANCASTER, PA. 17604

APRIL 28, 1975

MICHAEL B. POLLACK ESQ.
42-ND FLOOR
1345 AVENUE OF THE AMERICAS.
NEW YORK, NEW YORK, 10019

DEAR MIKE:

I'M STILL TRYING TO COLLECT THE RE-IMBURSMENT OF EXPENSE MONIES, I'VE DISCUSSED, SO MANY TIMES, WITH YOU.

YOU WILL RECALL THAT YOU HAD ME SIGN A VOUCHER, IN YOUR OFFICE, JUST BEFORE I WENT TO THE ANTILLES IN ORDER TO SECURE PAPERS ETC. WHICH WERE VITAL TO THE GOVERNMENTS CASE-V. PARNESS.

I WANT YOU TO GIVE ME AN AFFIDAVIT COVERING THE ABOVE.

Allan N. Goberman

COPY

J 464

COPY

ALLAN N. GOBERMAN
P. O. Box 1578
LANCASTER, PA. 17604

APRIL 28, 1975

MITCHELL R. HANKIN ESQ.
ASS'T. U.S. ATTORNEY
U.S. DEPARTMENT OF JUSTICE
4042 UNITED STATES COURT HOUSE
6TH & CHESTNUT STS.
PHILADELPHIA, PENNSYLVANIA, 19107

RE. GOBERMAN V. U.S.A.
C.A. 74-941

DEAR MR. HANKIN-

I HAVE YOUR LETTER OF APRIL 22, 1975, PROVIDING ME OF THE ADDRESSES OF MR JOHN M. DOWD AND MR. ROBERT J. CAMPBELL, THANK YOU.

I WISH TO ADVISE YOU THAT AN AFFIDAVIT FROM MR. DOWD WOULD BE MOOT AS HE DID NOT PARTICIPATE UNTIL A VERY LATE DATE IN THE PROCEEDINGS. I BELIEVE YOUR FILES WOULD INDICATE THAT I'VE STATED THAT THE ONLY CONTACT I HAD WITH MR. DOWD WAS A REQUEST TO BRING MY BRIEF CASE AND THE REIMBURSMENT FUNDS, WHEN HE WAS TO MEET WITH MR. McGUIRE AND MYSELF, IN NEW YORK, IN MR. McGUIRES OFFICE, IN PRE-TRIAL CONFERENCE. MR. DOWD DOES NOT HAVE FIRST HAND KNOWLEDGE OF ANY PROMISES OF REIMBURSMENT TO ME.

717-872-2591
MITCHELL R. HANKIN ESQ.

J 465

ALLAN N. GOBERMAN
P. O. Box 1578
LANCASTER, PA. 17604

I AM ENCLOSING COPY OF LETTER TO MR. CAMPBELL, WHICH IS SELF EXPLANATORY.

I AM ENCLOSING COPIES OF LETTERS TO WILLIAM GLASE ESQ. (FORMER) SPECIAL AGENT I.R.S. AND TO MICHAEL B. POLLACK ESQ. (FORMER) ASSISTANT CHIEF OF STRIKE FORCE OF U.S. DEP'T OF JUSTICE, E.D. N.Y., SELF EXPLANATORY.

AS THESE PEOPLE WERE VERY MUCH INVOLVED I SUGGEST YOU MIGHT ASK THEM TO FURNISH YOU WITH A, SWORN TO, AFFIDAVIT.

VERY TRULY YOURS,

Allan N. Goberman

-2-

J 466

717-872-2591

ALLAN N. GOBERMAN
P. O. Box 1578
LANCASTER, PA. 17604

APRIL 28, 1975

WILLIAM GLASE, ESQ.
269 A. NORTH ARLINGTON AVE.
HARRISBURG, PA. 17109

COPY

DEAR MR. GLASE.

I CALLED YOUR OFFICE AND WAS TOLD YOU RETIRED.

I WANT, FROM YOU, AN AFFIDAVIT THAT YOU WERE AWARE THAT R.J. CAMPBELL PROMISE TO RE-IMBURSE ME FOR MY OUT OF POCKET EXPENSES. YOU ARE FULLY AWARE OF HIS PROMISE, YOU PHONED ME ABOUT $75.00 OF ALL CALLS TO MEET WITH CAMPBELL AND OTHERS.

ALSO, WHEN YOU CALLED ME TO COME TO YOUR OFFICE, ON MAY 18, 1971 TO SIGN AN AUTHERIZATION FOR YOU, AS A REPRESENITIVE OF THE GOVERNMENT OF THE UNITED STATES, TO SCRUTINIZE THE BANK RECORDS, IN ST. MAARTEN, YOU REIMBURSED MY EXPENSES WITH A PERSONAL CHECK, WHICH I ENDORSED AND YOU CASHED. ADVISING ME THAT YOU WILL

717-872-2591

J 467

WM GLASER IG

ALLAN N. GOBERMAN
P. O. Box 1578
LANCASTER, PA. 17604

THEN BE REIMBURSED BY YOUR OFFICE.

IN THE NAME OF HONESTY AND FAIR PLAY, I WANT YOUR AFFIDAVIT.

J 468

Dear Sir:

I hereby authorize the BANK OF NOVA SCOTIA to make available to the representative of the Government of the UNITED STATES [Treasury Agent William F. Glase], who will present this authorization to the bank, any and all records of ST. MAARTEN ISLE HOTEL CORPORATION, N.V. from January 1, 1970, to June 1, 1971, which are in the possession of the St. Maarten branch of the bank of NOVA SCOTIA, including but not limited to:

1) Signature card(s)
2) Ledger sheets
3) Deposit tickets
4) Canceled checks
5) Credit and debit memorandum
6) Loan ledgers

I was Managing Director, 90.5 percent stockholder, and casino licensee of the St. Maarten Isle Hotel Corporation, N.V. at least from January 1, 1970, to June 1, 1971, and it is under this authority that I authorize these disclosures.

Allan M. Goberman

Subscribed and sworn to me this 18 day of MAY, 1973.

Notary Public

My commission expires

COPY

J 469

717-872-2591

ALLAN N. GOBERMAN
P. O. Box 1578
LANCASTER, PA. 17604

APRIL 28, 1975

ROBERT J. CAMPBELL ESQ.
5 CROWN CENTER, SUITE 400
2480 PERSHING ROAD
KANSAS CITY, MISSOURI - 64108

COPY

DEAR R.J.:

MR. RINKIN, (SEE ATTACHED LETTER) TELLS ME YOU ARE GIVING HIM AN AFFIDAVIT TO THE EFFECT THAT YOU NEVER PROMISED ME RE-IMBURSMENT FOR MY OUT OF POCKET EXPENSES.

NOW R.J. BEFORE YOU SWEAR TO THAT, WHY DON'T YOU STOP JUSTIFYING AND BE HONEST WITH YOURSELF AS WELL AS OTHERS. WHY DON'T YOU TELL THE TRUTH: THAT YOU DID PROMISE TO REIMBURSE ME BUT YOU FAILED TO "MAKE UP" THE FORMS TO DO SO, ORIGINALLY, AND THAT YOU WERE JUST NEGLIGENT AND MADE A MISTAKE

WHAT'S IT GOING TO TAKE, R.J. TO GET THE TRUTH OUT OF YOU?

Allan N. Goberman

J. 470

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

ALLAN N. GOBERMAN
PLAINTIFF
V.
the UNITED STATES OF AMERICA,
DEFENDANT

CIVIL ACTION
NO. 74-941

AMENDED COMPLAINT

1. THE PLAINTIFF IS ALLAN N. GOBERMAN, WHO RESIDES AT 104 VILLAGE GREEN LANE, LANCASTER, PENNSYLVANIA. HIS MAILING ADDRESS IS POST OFFICE BOX 1578, LANCASTER, PENNSYLVANIA, 17604.

2. THE DEFENDANT IS THE UNITED STATES OF AMERICA.

3. JURISDICTION IN THE FEDERAL DISTRICT COURT IS CONFERRED BY SECTION 1346(a)(2) OF TITLE 28, UNITED STATES CODE.

4. ON OCTOBER 26, 1971, PLAINTIFF RECEIVED A SUBPOENA TO APPEAR, ON NOVEMBER 8, 1971, AT THE UNITED STATES DISTRICT COURT, FOR THE EASTERN DISTRICT OF NEW YORK, BROOKLYN, NEW YORK. THIS SUBPOENA WAS SIGNED BY SPECIAL UNITED STATES ATTORNEY, MICHAEL J. POLLACK.

5. THEREFORE ON NOVEMBER 8, 1971, PLAINTIFF APPEARED BEFORE A GRAND JURY, AT THE REQUEST OF ATTORNEY POLLACK. AT THE END OF THAT DAY ATTORNEY POLLACK HAD PLAINTIFF SIGN A VOUCHER AND PLAINTIFF THEN RECEIVED A CHECK AS REIMBURSEMENT FOR HIS EXPENSES INCURRED, MAKING THE TRIP FROM LANCASTER, PENNSYLVANIA, TO BROOKLYN NEW YORK.

6.. ALSO ON NOVEMBER 3, 1971, PLAINTIFF HAD A LENGTHY MEETING WITH ATTORNEY POLLACK.

7.. ATTORNEY POLLACK ADVISED PLAINTIFF THAT HE WILL "TURN OVER" PLAINTIFF TO ROBERT V. CAMPBELL, ATTORNEY IN CHARGE, STRIKE FORCE 18, UNITED STATES DEPARTMENT OF JUSTICE, WASHINGTON. D. C. AND THAT ATTORNEY CAMPBELL WILL CONTACT PLAINTIFF TO ARRANGE A CONFERENCE.

8.. ATTORNEY POLLACK ALSO ADVISED PLAINTIFF THAT PLAINTIFF WOULD BE REQUESTED TO TRAVEL TO WASHINGTON D.C. AND NEW YORK OR ANY OTHER DESTINATION THE STRIKE FORCE CONSIDERS ESSENTIAL IN ORDER TO DEVELOP THE CASE AGAINST PARNESS, EVENTUALLY AS UNITED STATES OF AMERICA V. PARNESS 73-CR-750.

9.. PLAINTIFF QUESTIONED ATTORNEY POLLACK IF THE AFOREMENTIONED REQUESTS FOR PLAINTIFF TO TRAVEL TO THESE CONFERENCES WOULD BE IN THE FORM OF SUBPOENAS, ATTORNEY POLLACK ADVISED PLAINTIFF THAT HIS ORIGINAL SUBPOENA, OF OCTOBER 26, 1971, WAS AN "OPEN SUBPOENA" AND THAT A REQUEST BY TELEPHONE OR LETTER REQUESTING PLAINTIFF'S APPEARANCE AT A CONFERENCE WAS TANTAMOUNT TO THE ISSUANCE OF A SUBPOENA AND THEREFORE PLAINTIFF MUST HONOR SAID REQUESTS FOR HIS APPEARANCE AS PLAINTIFF WAS UNDER SUBPOENA.

10.. ON MARCH 17, 1972, ATTORNEY POLLACK REQUESTED PLAINTIFF TO TRAVEL TO DETROIT, MICHIGAN, TO ATTEND A CONFERENCE. AFTER A TWO DAY CONFERENCE ATTORNEY POLLACK HAD PLAINTIFF SIGN A VOUCHER AND THEN PLAINTIFF WAS RE-IMBURSED FOR HIS TRAVEL EXPENSE INZURRED IN THIS TRIP.

11.. ON JULY 18, 1972, PLAINTIFF RECEIVED A SUBPOENA TO APPEAR BEFORE A GRAND JURY ON JULY 26, 1972, IN THE UNITED STATES DISTRICT COURT, FOR THE SOUTHERN DISTRICT OF NEW YORK. THIS SUBPOENA WAS SIGNED BY ROBERT J. CAMPBELL ATTORNEY IN CHARGE, STRIKE FORCE 18, UNITED STATES DEPARTMENT OF JUSTICE. AT PLAINTIFF'S APPEARANCE ON JULY 26, 1972, ATTORNEY CAMPBELL HAD PLAINTIFF SIGN A VOUCHER AND THEN PLAINTIFF WAS REIMBURSED FOR HIS EXPENSES INCURRED IN THIS TRIP.

12.. ON MAY 1, 1973, AT THE REQUEST OF ATTORNEY CAMPBELL, PLAINTIFF ATTENDED A CONFERENCE WITH HAROLD F. McGUIRE JR, ASSISTANT UNITED STATES ATTORNEY AT THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK. ALTHO PLAINTIFF SIGNED A VOUCHER PLAINTIFF WAS NOT REIMBURSED ON THAT DAY AS THE CONFERENCE LASTED UNTIL EARLY EVENING AT WHICH TIME THE DISBURSMENT DESK HAD CLOSED FOR THE DAY. HOWEVER PLAINTIFF WAS ASSURED THE REIMBURSEMENT CHECK WOULD BE MAILED THE NEXT DAY

13.. ON MAY 7, 1973, PLAINTIFF WROTE TO ATTORNEY CAMPBELL ADVISING HIM THAT THE CHECK HAD NOT ARRIVED AND IN VIEW OF THE FACT THAT PLAINTIFF'S INCOME WAS HIS SOCIAL SECURITY CHECK, PLAINTIFF WAS IN DIRE NEED OF THESE MONIES COMING TO HIM. AT THE SAME TIME PLAINTIFF ALSO REMINDED ATTORNEY CAMPBELL, AGAIN, THAT PLAINTIFF HAS NOT BEEN REIMBURSED FOR THE OTHER NUMEROUS TRIPS TO CONFERENCES IN WASHINGTON D. C. AND NEW YORK, NEW YORK, SAID TRIPS MADE AT THE REQUEST OF ATTORNEY CAMPBELL AND/OR HIS DELEGATES. SUBSEQUENTLY PLAINTIFF DID RECEIVE THE CHECK REIMBURSING FOR THE TRIP TO NEW YORK ON MAY 1, 1973.

14.. ON AUGUST 22, 1973 PLAINTIFF RECEIVED A SUBPOENA TO APPEAR ON SEPTEMBER 10, 1973 AT THE UNITED STATES DISTRICT COURT, FOR THE SOUTHERN DISTRICT OF NEW YORK, RELATIVE TO UNITED STATES OF AMERICA V. PARNESS 73 CT 750. AT THE END OF PLAINTIFF'S APPEARANCE AS A GOVERNMENT WITTNESS, ATTORNEY McGUIRE HAD PLAINTIFF SIGN A VOUCHER AND PLAINTIFF WAS THERE REIMBURSED HIS EXPENDITURES.

15.. FROM JULY 1972 TO OCTOBER 1973, PLAINTIFF MADE NUMEROUS TRIPS, FOR CONFERENCES, AT THE REQUEST OF ATTORNEY CAMPBELL AND/OR HIS DELEGATES

16.. PLAINTIFF NEVER REFUSED TO ATTEND THESE CONFERENCES AS HE WAS STILL UNDER THE "OPEN SUBPOENA" OF ATTORNEY POLLACK

J 474

17.. AFTER THE SECOND CONFERENCE WITH ATTORNEY CAMPBELL, PLAINTIFF REMINDED HIM THAT HE HAD NOT BEEN REIMBURSED HIS EXPENSES. ATTORNEY CAMPBELL ADVISED PLAINTIFF THAT HE HAD NEGLECTED TO HAVE PLAINTIFF SIGN A VOUCHER ON THE FIRST TRIP, BUT PLAINTIFF WAS "NOT TO WORRY IT," "THE PROPER ARRANGEMENTS WILL BE MADE TO RE-IMBURSE PLAINTIFF.

18.. WHEN IT BECAME APPARENT TO PLAINTIFF THAT SOME ACTION HAD TO BE TAKEN TO GET HIS MONEY, PLAINTIFF WROTE TO ATTORNEY POLLACK REQUESTING HE SETUP A MEETING IN ORDER TO STRAIGHTEN OUT THIS MATTER WITH ATTORNEY CAMPBELL. AFTER NUMEROUS LETTERS AND PHONE CALLS BY PLAINTIFF, ATTORNEY POLLACK ADVISED PLAINTIFF THAT POLLACK'S SUPERIOR TOLD HIM TO "STAY OUT OF IT" AS IT IS ATTORNEY CAMPBELL'S PROBLEM.

19.. AS PLAINTIFF WAS UNDER THE "OPEN SUBPOENA" OF OCTOBER 26, 1971, PLAINTIFF HAD NO ALTERNATIVE BUT TO DO AS REQUESTED BY ATTORNEY CAMPBELL AND/OR HIS DELEGATES.

20.. PLAINTIFF MADE A TRIP TO THE NETHERLANDS ANTILLES, TO PROCURE CERTAIN EXHIBITS AND MORE INFORMATION WHICH WAS IMPORTANT TO THE GOVERNMENT'S CASE AGAINST PARNESS. BEFORE PLAINTIFF LEFT ON SAID TRIP HE SIGNED A VOUCHER IN ATTORNEY'S POLLACK OFFICE. BUT PLAINTIFF WAS NOT REIMBURSED HIS EXPENSES

21.. PLAINTIFF ALLEGES THAT THE FUNDS HE SPENT, OUT OF POCKET, WAS DONE IN GOOD FAITH BECAUSE:

(A)..PLAINTIFF WAS UNDER SUBPOENA, THEREFORE PLAINTIFF COULD NOT REFUSE THE REQUESTTOTRAVEL..AND..

(B) A REQUEST TO TRAVEL, WHEN UNDER SUBPOENA IS TANTAMOUNT TO A CONTRACT IN THAT THE SUBPOENA STATES THAT QUOTE: "FAILURE TO ATTEND WILL BE DEEMED GUILTY OF A CONTEMPT OF COURT, AND LIABLE TO PAY ALL LOSS AND DAMAGES, AND FORFEIT TWO HUNDRED AND FIFTY DOLLARS, IN ADDITION THERETO AND TO OTHER PENALITIES OF THE LAW!!.

22.. PLAINTIFF-APPEARING PRO-SE IN THIS ACTION, PROBABLY IS WITHOUT KNOWLEDGE AS TO THE LEGAL RAMIFICATIONS INVOLVED IN MAKING UP THIS COMPLAINT, HOWEVER PLAINTIFF DOES KNOW THAT:

(A) PLAINTIFF WAS SUBPOENAED BY DELEGATES OF THE UNITED STATES OF AMERICA.

(B) PLAINTIFF WAS COGNIZANT OF HIS DUTIES UNDER SAID SUBPOENAS

(C) PLAINTIFF SPENT HIS FUNDS TO TRAVEL FOR THE UNITED STATES OF AMERICA.

(D) THE UNITED STATES ATTORNEY SLIPPED UPON A TECHNICALITY BY NOT HAVING PLAINTIFF SIGN A VOUCHER

(E) THE UNITED STATES' ATTORNEY PROMISED TO REIMBURSE PLAINTIFF.

(F) PLAINTIFF'S CLAIM UPON WHICH RELEIF CAN BE GRANTED, IS SIMPLY THAT THE UNITED STATES' ATTORNEY DID NOT LIVE UP TO THEIR CONTRACT WITH PLAINTIFF

J 476

23.. THE PLAINTIFF SPENT HIS $1,300^{00}/_{100}$ IN GOOD FAITH, KNOWING THAT HIS GOVERNMENT WOULD NOT GO BACK ON IT'S WORD AND/OR IT'S CONTRACT..

24.. PLAINTIFF HAS BEEN TRYING TO GET BACK THE $1,300^{00}/_{100}$ FOR MORE THAN TWO YEARS.

25.. PLAINTIFF PRAYS THAT THE COURT ORDERS IN FAVOR OF PLAINTIFF AS THE MONEY PLAINTIFF SPENT IN GOOD FAITH IS NEEDED FOR "GROCERY MONEY"

ALLAN N. GOBERMAN
PLAINTIFF PRO-SE
POST OFFICE BOX 1578
LANCASTER
PENNSYLVANIA - 17604

J 477

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA, :

- v - : AFFIDAVIT

MILTON PARNESS, ET AL. : 73 Cr. 750 DBB

Defendants. :

----------x

CITY OF WASHINGTON)
DISTRICT OF COLUMBIA) SS.:

JOHN M. DOWD, being duly sworn, deposes and says:

1. I am the Attorney-in-Charge of Strike Force 18, Organized Crime and Racketeering Section, Criminal Division, United States Department of Justice, Washington, D.C. I make this affidavit in response to certain post-trial motions of the defendants.

2. I was responsible for the trial preparation and the conduct of the trial of the above-entitled case with Assistant United States Attorney Harold F. McGuire, Jr., of the Southern District of New York. In that capacity, I was responsible for the investigative file of this case which until June or July 1973, was maintained in my office in Washington, D.C.

3. In or about June or July 1973, the entire PARNESS investigative file was transported to the Southern District of New York for maintenance in the office of Assistant United States Attorney Harold F. McGuire, Jr., to be used in

Ex 6

preparation of the trial of this case. Following the trial the file was returned to my office in Washington, D.C., except for the trial transcript and trial exhibits which remained in New York for the appeal.

4. I have examined the correspondence of Allan Goberman which is the subject of the post-trial motion. None of the correspondence were part of the PARNESS investigative file which your affiant used to prepare for and conduct the trial of the case.

5. I have recently searched the PARNESS investigative file and have not found any of th letters attached to the post-trial motions.

6. Following the trial of MILTON PARNESS and in or about October 20, 1973, I received correspondence from Allan Goberman claiming unpaid witness fees and travel expenses. As a result, I opened a correspondence file which contains correspondence from Allan Goberman concerning those fees.

7. Following the trial of MILTON PARNESS and in or about mid-December 1973, your affiant received copies of letters which were attached to the post-trial motion along with an additional claim for fees and expenses. Copies of the letters are:

a. December 13, 1972, from Allan Goberman to Michael Pollack.

b. January 11, 1973, from Allan Goberman to Michael Pollack.

c. January 22, 1973, from Allan Goberman to Michael Pollack.

d. March 7, 1973, from Allan Goberman to Mr. Pollack.

e. March 9, 1973, from Allan Goberman to Mr. Campbell.

f. March 28, 1973, from Allan Goberman to Mr. Campbell.

g. August 23, 1972, from Goberman to Pollack.

8. Following the filing of the post-trial motions containing the Goberman correspondence, your affiant searched all of the files of this Strike Force to determine if any of the correspondence in issue here was in the files.

9. In a search of the administrative files of this Strike Force which contain travel files, miscellaneous correspondence files, personnel files, chronological correspondence files for the office and each attorney, I found the following letters from Goberman which are at issue in the post-trial motions:

a. March 9, 1973, letter from Mr. Goberman to Mr. Campbell.

b. March 13, 1973, letter from Goberman to Mr. Campbell.

c. Newspaper Article dated April 15, 1973.

d. April 27, 1973, letter from Goberman to Mr. Leff.

e. May 21, 1973, letter from Goberman to Leff.

f. June 21, 1973, letter from Mr. Leff to Mr. Goberman.

g. June 25, 1973, letter from Goberman to District Director, Internal Revenue Service, Cincinnati, Ohio.

10. Prior to the trial of MILTON PARNESS in September and October 1973, your affiant was not aware of the correspondence contained in the administrative files of this Strike Force and made no search of the administrative files prior to transporting the files to New York for the preparation and conduct of the trial.

JOHN M. DOWD

Sworn to before me this
25th day of April 1975.

Sharon Schultz
Notary Public

My commission expires May 31, 1977

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA 17603

RECEIVED 1
1 52 PM '73
DEPT. OF JUSTICE
MAIL ROOM
ORGN

11/16

3-9-73

Allan Goberman

R.J. CAMPBELL ESQ.

DEAR MR. CAMPBELL

I KNOW HOW WRAPPED UP & BUSY YA MUST BE IN PREPERATION OF THE VERY IMPORTANT "CASE" YA HAVE COMING UP IN FLORIDA, SHORTLY!

HOWEVER, WHEN YA RETURN TO YAR OFFICE, I WOULD APPRECIATE YAR SETTING UP A MEETING WITH YOURSELF, MICHAEL POLLACK AND MYSELF.

IT WAS NICE SEEING YA FOR A FEW BRIEF MINUTES YESTERDAY.

PLEASE CONTACT ME AT ABOVE

Allan Goberman

COPY TO CHIEF MAIL

46-69-

DEPARTMENT OF JUSTICE
36 MAR 1
CRIMINAL DIV
Organized Crime and Ra
CRIMIN
Frau
CIVIL DIV
Fraud

EX 7

482

ST. MAARTEN-ISLE-HOTEL-CORP-N.V.
P. O. Box 1578
Lancaster, Penn. 17604
USA

ROBERT J. CAMPBELL ESQUIRE
ROOM # 2722
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON
D.C.
20530

U.S. POSTAL SERVICE
9 MAR 1979
PM

EISENHOWER USA

J 483

Campbell

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

3-13-73

ROBERT J CAMPBELL ESQ.

DEAR MR. CAMPBELL!

LAST WEEK, WHEN I WAS AT YOUR OFFICE, WE DISCUSSED BRIEFLY THE MATTER OF "SAM NORBER—I.R.S.—(MY) $60,000.00 MATTER"

YOU TOLD ME THAT YOU WOULD LOOK INTO THIS AND POSSIBLY (ADVISE) SUGGEST THE STEPS I (MUST) SHOULD TAKE IN ORDER TO EFFECT THE RECOVERY OF THIS MONEY, ... AND ... SUGGESTED I DROP YOU A LINE AS A REMINDER.

AS I'M ANXIOUS TO GET ALONG ON THIS MATTER I'D APPRECIATE HEARING FROM YOU.

THANK YOU

Allan N. Goberman

School Valley Farms Corp.
104 Village Green Lane
P. O. Box 1578
Lancaster, Pa. 17604

Crim

PM
13 MAR

EISENHOWER·USA

ROBERT J. CAMPBELL ESQUIRE
ROOM # 2722
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON
D.C. 20530

J 484

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

4-18-23

ROBERT J. CAMPBELL ESQ.

R.V. -

THIS IS A MOST INTERESTING ARTICLE - A LOT OF UNANSWERED "QUESTIONS" ARE NOW FALLING INTO PLACE... WHEN I NEXT SEE YOU REMIND ME & WE'LL DISCUSS THE "QUESTIONS" —

I RED PENCILED DAVID WEST IN THE ARTICLE, IF YOU WILL CHECK YOUR "DETROIT" JUNKETT SHEET YOU WILL SEE HIS NAME, AT BOTTOM OF PLAYERS SHEET, AS A WINNER OF, EITHER $3,000 - OR $20,000 - CAN'T REMEMBER WHICH —

I ASKED PARNESS - "WHAT DOES WEST DO" — HE ANSWERED "NUMBERS" —

YOU KNOW, R.V. IT MAKES ME SHOTTEN IN DISGUST (& FRIGHT) WHEN I THINK THAT THESE WERE THE KIND OF PEOPLE (ANIMALS) I ACTUALLY "RUBBED SHOULDERS" WITH - IN THAT G.D. CASINO

AAG

46-63-172

30 APR
Organiz CRIMINAL DIVISION
Crime and Racketeering Section
CRIMINAL-FRAUD SEC.
CIVIL DIV.
Frauds

J 486

Form 843
(Rev. Jan. 1973)
Department of the Treasury
Internal Revenue Service

Claim

Director's Stamp
(Date received)

The Internal Revenue Service will indicate in the block below the kind of claim filed, and fill in, where required.

[ ] Refund of Taxes Illegally, Erroneously, or Excessively Collected.
[ ] Refund of Amount Paid for Stamps Unused, or Used in Error or Excess.
[ ] Abatement of Tax Assessed (not applicable to income, estate or gift taxes).

Taxpayer's name and address

a. Name of taxpayer or purchaser of stamps

Number and street

City or town, State, and ZIP code

Fill in applicable items—Use attachments if necessary

a. Your social security number | Wife's number, if joint return | b. Employer identification number (if any)

c. Internal Revenue service office where return (if any) was filed

d. Name and address shown on return, if different from above

e. Period—if for tax reported on annual basis, prepare separate form for each taxable year
From ..... 19 ..., to ..... 19 .....

f. Kind of tax

g. Amount of assessment
$

Dates of payment

h. Date stamps were purchased from Government

i. Amount to be refunded (If income tax, complete computation below)
$60,000.00

j. Amount to be abated (not applicable to income, estate, or gift taxes)
$

k. The claimant believes that this claim should be allowed for the following reasons:

SEE ATTACHED STATEMENT-

Computation of Income Tax Refund	Income Tax
1 Tax withheld	
2 Estimated tax paid	
3 Tax paid with original return	
4 Any additional income tax paid	
5 Total tax paid (add lines 1–4)	
6 Less: Your computation of correct tax	
7 Amount of overpayment	
8 Amount previously refunded	
9 Net overpayment (enter in item i above)	

Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Signed Allan N. Solomon

Dated 4-27-73, 19

P.O. BOX 1578 LANCASTER PA 17604

See instructions on reverse.

Form 843 (Rev. 1-73)

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

4-27-73

TO: LAURENCE LEFF ESQ.
DEPARTMENT OF JUSTICE
ORGANIZED CRIME & RACKETEERING SECTION
ROOM 1064, FEDERAL BUILDING
DETROIT, MICHIGAN 48226.

COPY

DEAR MR. LEFF.

ENCLOSED PLEASE FIND (I.R.S.) FORM # 843. WITH EXPLANATORY ATTACHMENT.

AS I DIDN'T RECEIVE INSTRUCTIONS RE: DIRECTION OF MAILING, WILL YOU PLEASE BE GOOD ENOUGH TO GIVE PAPERS TO PROPER PERSON(S).

THANK YOU FOR YOUR (PAST) CO-OPERATION AS WELL.

I REMAIN
YOURS TRULY

46-69-178
DEPARTMENT OF JUSTICE
36 APR 30 1973
Organized Crime and Racketeering Section

J 488

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

4-27-73

ATTACHED TO FORM # 843-IRS - REFER TO "X"

MY NAME IS ALLAN N. GOBERMAN AND I RESIDE AT 104 VILLAGE GREEN LANE, LANCASTER PA-17604

(PRIOR TO) JANUARY 1971 - I WAS THE OWNER OF THE ST. MAARTEN ISLE HOTEL, LOCATED IN ST. MAARTEN NETHERLANDS ANTILLES.

AT THE SAME TIME I WAS THE "OPERATOR" OF A GAMING CASINO LOCATED WITHIN THE HOTEL.

SAMUEL NORBER, OF DETROIT MICH., AS A JUNKETEER OPERATOR, WAS RESPONSIBLE TO COLLECT AND DELIVER TO ME, OR MY DESIGNATED AGENTS, ALL GAMBLING LOSSES OF HIS OWN - - HIS PERSONAL ASSOCIATES - AND THE PEOPLE HE BROUGHT TO THE CASINO ON HIS JUNKETS

SOMETIME IN JANUARY 1971 - SAMUEL NORBER WAS BRINGING $60,000.00 FROM DETROIT - TO - NEW YORK - TO BE DELIVERED TO ME, AS A PARTIAL COLLECTION OF GAMING DEBTS

717-392-2591

ALLAN N. GOBERMAN
304 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

PAGE 2

DVE...
AT THAT TIME THE $60,000.00 WAS CONFISCATED BY A GOVERNMENT AGENCY AND I WAS THEN INFORMED TO CLAIM THE MONEY AT THAT TIME.

I INITIATED SEVERAL STEPS TOWARDS CLAIMING MY MONEY.. BUT.. FOUND THAT I WAS GETTING INTO AREAS THAT COULD BE DANGEROUS TO MY "WELL BEING".

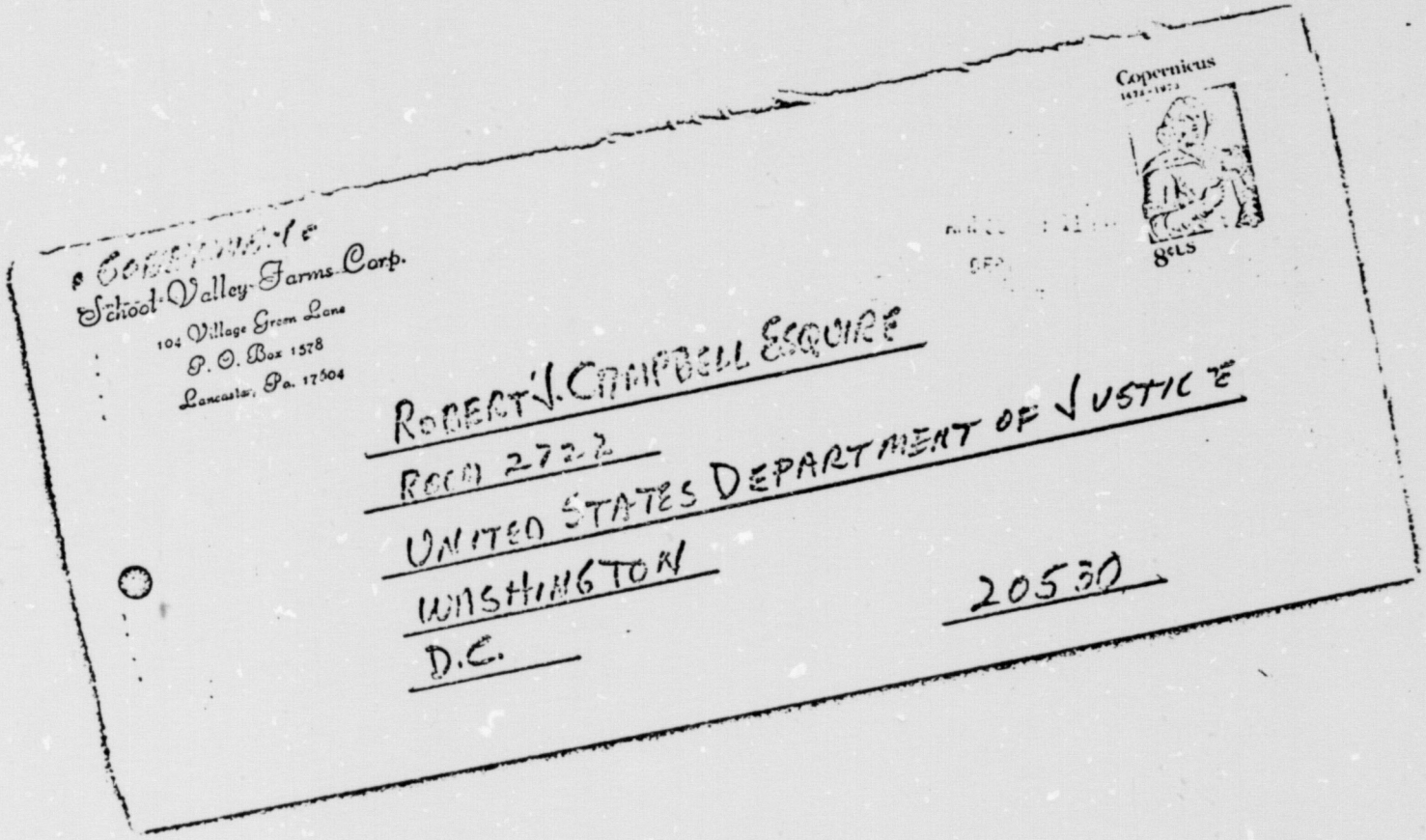
MY RECORDS COVERING THE ABOVE FACTS ARE NOT IN MY POSSESION BUT IN THE POSSESION OF.

ROBERT J. CAMPBELL ESQUIRE
ATTORNEY-IN-CHARGE
STRIKE FORCE 18
ROOM 2722
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON D.C. 20530

COPY

THERE ARE MANY MORE FACTS PERTAINING TO MY CLAIM-BUT-I DON'T THINK IT PRUDENT TO DOCUMENT THEM IN THIS LETER--PLEASE ADVISE ME WHEN I MAY EXPECT THE RELEASE OF THESE FUNDS TO ME.

Sincerely


Copernicus
1473 - 1973
8cts
School Valley Farms Corp.
104 Village Green Lane
P. O. Box 1578
Lancaster, Pa. 17604
ROBERT V. CAMPBELL ESQUIRE
ROOM 2732
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON
D.C.
20530

J 490

J .491.

717-072-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

6-8-73

MISS MARGE
SECRETARY TO
R.V. CAMPBELL ESQ. AND
JOHN DOWD ESQ.
U.S. DEPT. OF JUSTICE ROOM 2222
WASHINGTON D.C. 20530

DEAR MISS MARGE: (I'M SORRY I DON'T HAVE YOUR LAST NAME)

IN MR. CAMPBELL'S AND MR. DOWD'S OFFICE, IS A BLACK LEATHER BRIEF-CASE, WHICH IS MINE. MR. DOWD, WHO IS VERY BUSY, FORGOT TO BRING IT TO ME IN NEW YORK, RECENTLY.

WILL YOU GET PERMISSION FROM YOUR "BOSSES" TO WRAP THE BRIEF-CASE IN HEAVY PAPER - AND - PLEASE MAIL IT OFF TO ME BY PARCEL POST, TO ABOVE ADDRESS.

THANK YOU VERY MUCH

Allan N. Goberman

J 492

Echert Valley Farms Corp.
104 Village Green Lane
P. O. Box 1578
Lancaster, Pa. 17604

D

1973

EISENHOWER-USA

TO - MISS MAGEE ✓
SECRETARY TO - K. J. CAMPBELL & JOHN DOWD ESQUIRES
ROOM 2722
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON
D.C.
20530

J 493

(Carry Over)

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

JUNE 25TH 1972

TO THE DIRECTOR
INTERNAL REVENUE SERVICE CENTER
CENTRAL REGION,
CINCINNATI, OHIO - 45298

DEAR MR. DIRECTOR:

THE ATTACHED (COPIES) IS SELF-EXPLANATORY.

AS YOU SEE, A LOT OF TIME HAS BEEN WASTED.

I RESPECTFULLY REQUEST THAT YOU RETURN MY $60.00 TO ME AT A VERY EARLIEST DATE.

KINDLY ACKNOWLEDGE THIS CORRESPONDENCE.

VERY TRULY YOURS

Allan N. Goberman

IR-63-172

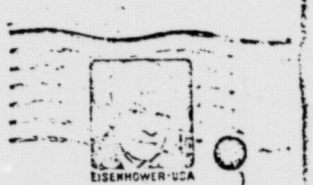
RECEIVED
JUN 27 1972
CRIMINAL DIVISION
Organized Crime and Racketeering Section

(1)

(2)

J 494

A.V.C.
School Valley Farms Corp.
104 Village Green Lane
P. O. Box 1578
Lancaster, Pa. 17604



ROBERT N. CAMPBELL ESQ.
ROOM # 2722
U.S. DEPARTMENT OF JUSTICE
WASHINGTON
D.C. 20530

ALLAN N. GODERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

COPY

TO

JUNE 20th 1973

LAWRENCE LEFF ESQ.
DEPARTMENT OF JUSTICE
ORGANIZED CRIME-RACKETEERING SECTION
ROOM 1064 - FEDERAL BUILDING
DETROIT, MICHIGAN - 48226

DEAR MR. LEFF.

THANK YOU FOR RETURNING MY CALL TODAY - & FOR SENDING ME FORMS & PAPER ADDRESS TO (ME) MISSING SAME.

I AM ATTACHING COPIES OF

(A) MY LETTER TO YOU - 4-27-73
(B) FORM #843
(C) MY COVERING LETTER ATTACHED TO FORM #843

IT'S REALLY (& SINCE) TOO BAD THAT AN ENTIRE MONTH HAS APPARENTLY BEEN LOST —

THANKS AGAIN,

Allan Goderman

Jun 20 1973
CRIMINAL DIVISION
Organized Crime and Racketeering Section
CRIMINAL DIV.
Fraud Sec.
CRIM. DIV.
Fraud Sec.

J. 496

COPY

ALLAN N. GOBERMAN
104 Village Green Lane · P. O. Box 1578
LANCASTER, PA. 17604

4-27-73

TO LAWRENCE LEFF ESQ.
DEPARTMENT OF JUSTICE
ORGANIZED CRIME & RACKETEERING SECTION
ROOM 1064, FEDERAL BUILDING
DETROIT, MICHIGAN 48226.

ONLY COPY AVAILABLE

DEAR MR. LEFF.

ENCLOSED PLEASE FIND (I.R.S) FORM # 843 - WITH EXPLANATORY ATTACHMENT.

AS I DIDN'T RECEIVE INSTRUCTIONS RE: DIRECTION OF MAILING, WILL YOU PLEASE BE GOOD ENOUGH TO GIVE PAPERS TO PROPER PERSON(S).

THANK YOU FOR YOUR (PAST) CO-OPERATION AS WELL,

I REMAIN
YOURS TRULY
Allan N. Goberman

COPY TO R.J.

SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BOX(ES)
(Additional charge required for these services)

☐ Show to whom, date and address where delivered ☐ Deliver ONLY to addressee

RECEIPT
Received the numbered article described below

REGISTERED NO.
INSURED NO.
DATE DELIVERED
MAY 1 .. 1973

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

SHOW WHERE DELIVERED (Only if requested, and not to exceed

J 497

Form 843
(Rev. Jan. 1973)
Department of the Treasury
Internal Revenue Service

Claim

Director's Stamp
(Date received)

The Internal Revenue Service will indicate in the block below the kind of claim filed, and fill in, where required.

- ☐ Refund of Taxes Illegally, Erroneously, or Excessively Collected.
- ☐ Refund of Amount Paid for Stamps Unused, or Used in Error or Excess.
- ☐ Abatement of Tax Assessed (not applicable to income, estate or gift taxes).

Taxpayer's Name and Address

a. Name of taxpayer or purchaser of stamps

Number and street

City or town, State, and ZIP code

Fill in applicable items—Use attachments if necessary

a. Your social security number	Wife's number, if joint return	b. Employer identification number (if any)

c. Internal Revenue Service office where return (if any) was filed

d. Name and address shown on return, if different from above

e. Period—if for tax reported on annual basis, prepare separate form for each taxable year
From ....., 19..... to ....., 19.....

f. Kind of tax

g. Amount of assessment
$

Dates of payment

h. Date stamps were purchased from Government

i. Amount to be refunded (if income tax, complete computation below)
$60,000.00

j. Amount to be abated (not applicable to income, estate, or gift taxes)
$

k. The claimant believes that this claim should be allowed for the following reasons:

SEE ATTACHED STATEMENT-

Computation of Income Tax Refund	Income Tax
1 Tax withheld	
2 Estimated tax paid	
3 Tax paid with original return	
4 Any additional income tax paid	
5 Total tax paid (add lines 1–4)	
6 Less: Your computation of correct tax	
7 Amount of overpayment	
8 Amount previously refunded	
9 Net overpayment (enter in item i above)	

Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Signed Allan N. Sloman

Dated 4-27-73, 19..... P.O. BOX 1578 LANCASTER PA 17604

See instructions on reverse.

Form 843 (Rev. 1-73)

J 498

COPY

ALLAN N. GODERMAN
104 Village Green Lane · P. O. Box 1578
LANCASTER, PA. 17604

4-27-73

ATTACHED TO FORM # 843-IRS - REFER TO "K"

MY NAME IS ALLAN N. GODERMAN AND I RESIDE AT 104 VILLAGE GREEN LANE, LANCASTER PA-17604

(PRIOR TO) JANUARY 1971 - I WAS THE OWNER OF THE ST. MAARTEN ISLE HOTEL, LOCATED IN ST. MAARTEN NETHERLANDS ANTILLES.

AT THE SAME TIME I WAS THE "OPERATOR" OF A GAMING CASINO LOCATED WITHIN THE HOTEL.

SAMUEL NORER, OF DETROIT MICH, AS A JUNKETEER OPERATOR, WAS RESPONSIBLE TO COLLECT AND DELIVER TO ME, OR MY DESIGNATED AGENTS, ALL GAMBLING LOSSES OF HIS OWN - - HIS PERSONAL ASSOCIATES - AND THE PEOPLE HE BROUGHT TO THE CASINO ON HIS JUNKETS

SOMETIME IN JANUARY 1971 - SAMUEL NORER WAS BRINGING $60,000.00 FROM DETROIT - TO - NEW YORK - TO BE DELIVERED TO ME, AS A PARTIAL COLLECTION OF GAMING DEBTS

ALLAN N. GOBERMAN
104 Village Green Lane • P. O. Box 1578
LANCASTER, PA. 17604

PAGE 2

DUE...

AT THAT TIME THE "60,000" WAS CONFISCATED BY A GOVERNMENT AGENCY AND I WAS THEN INFORMED TO CLAIM THE MONEY AT THAT TIME.

ONLY COPY AVAILABLE!

I INITIATED SEVERAL STEPS TOWARDS CLAIMING MY MONEY.. BUT.. FOUND THAT I WAS GETTING INTO AREAS THAT COULD BE DANGEROUS TO MY "WELL BEING".

MY RECORDS COVERING THE ABOVE FACTS ARE NOT IN MY POSSESION BUT IN THE POSSESION OF.

ROBERT J. CAMPBELL ESQUIRE
ATTORNEY-IN-CHARGE
STRIKE FORCE 18
ROOM 2722
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON D.C. 20530

THERE ARE MANY MORE FACTS PERTAINING TO MY CLAIM-BUT-I DON'T THINK IT PRUDENT TO DOCUMENT THEM IN THIS LETER--PLEASE ADVISE ME WHEN I MAY EXPECT THE RELEASE OF THESE FUNDS TO ME.

P.O. BOX 1578
LANCASTER
PA-17604

FIRST CLASS MAIL

ROBERT J. CAMPBELL ESQUIRE
U.S. DEPARTMENT OF JUSTICE
ROOM # 2723
WASHINGTON
D.C.

20530

ONLY COPY AVAILABLE

J 500

Campbell

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

5-21-73

LAWRENCE LEFF ESQUIRE
DEPARTMENT OF JUSTICE
ORGANIZED CRIME & RICKETEERING SECTION
ROOM 1064, FEDERAL BLDG.
DETROIT, MICHIGAN 48226

DEAR MR LEFF:

RE: M/K (CERTIFIED MAIL) LETER OF 4-27-73

PLEASE TELL ME WHO M YOU GAVE THIS LETTER & ATTACHED IRS FORM.

I'M VERY ANXIOUS TO HAVE THE MATTER RESOLVED.

THANK YOU

Allan N. Goberman

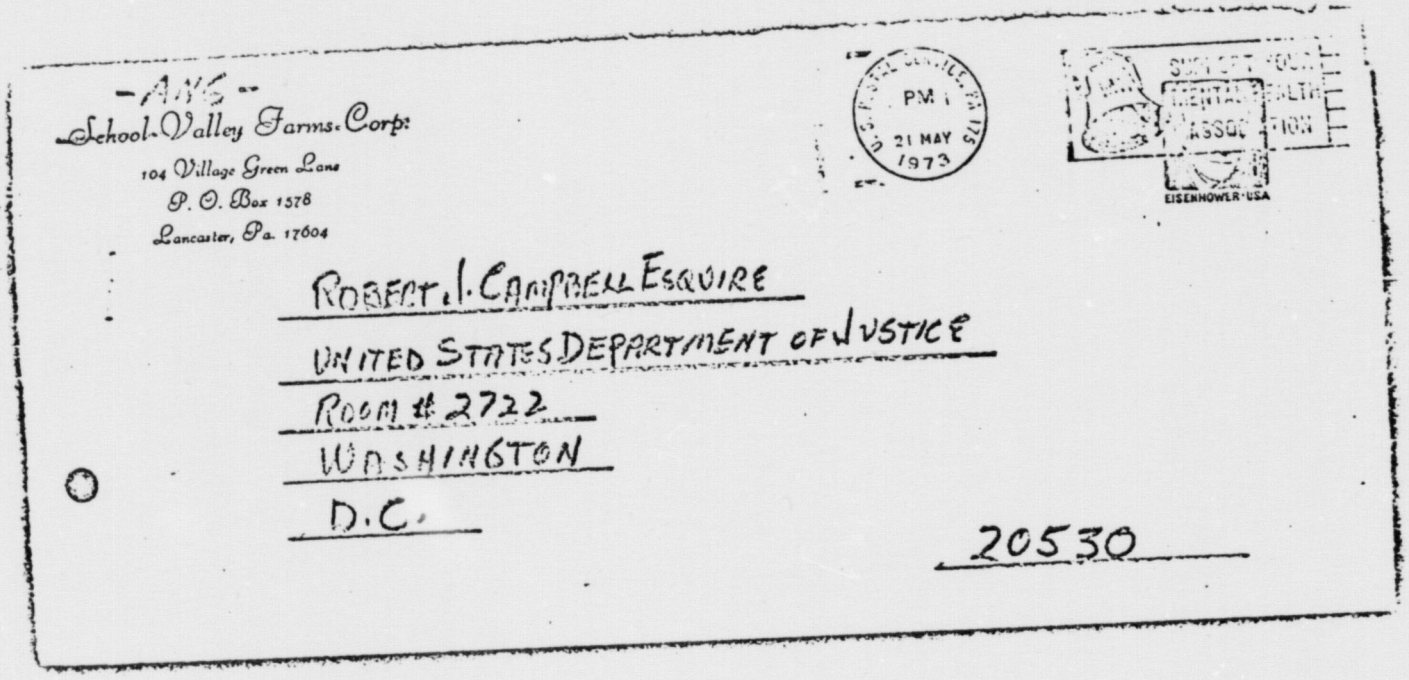
COPY TO R.N.C.

11-63-172

DEPARTMENT OF JUSTICE
36 MAY 24 1973
CRIMINAL DIVISION
Organized Crime and Racketeering Section

CRIMINAL DIV.
Fraud Sec.
CIVIL DIV.
Frauds Sec.

RECEIVED
MAY 24 1973
ORGANIZED CRIME &
RACKETEERING SECTION



-AMS-
School Valley Farms Corp:
104 Village Green Lane
P. O. Box 1578
Lancaster, Pa. 17604

U.S. POSTAL SERVICE PM 1 21 MAY 1973

EISENHOWER·USA

ROBERT J. CAMPBELL ESQUIRE
UNITED STATES DEPARTMENT OF JUSTICE
ROOM # 2722
WASHINGTON
D.C.
20530

J 502

ONLY COPY AVAILABLE

J 503

Form No. AD-71A
(Rev. 6-10-71)

RECEIVED
JUL 27 1973
ORGANIZED CRIME AND RACKETEERING SECTION

NOTICE

PLEASE
DO NOT REMOVE THIS SLIP FROM
THE ATTACHED CORRESPONDENCE
SINCE IT IS A PERMANENT PART OF
THE RECORD.

OFFICE OF RECORDS
OPERATIONS AND MANAGEMENT

CERTIFIED 436552

JUL 28 1973

REGISTERED

5-62-3525
DEPARTMENT OF JUSTICE
34 JUL 26 1973
RECORDED
CRIMINAL DIVISION
Organized Crime and Racketeering Section

J 504

P. 1 of 5

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

7-23-73

WM. GLASE ESQ.
C/O R. J. CAMPBELL ESQ.
U.S. DEPT. OF JUSTICE
ROOM #2722
WASHINGTON - D.C. 20530

DEAR BILL:

RE: 2 AIR TICKETS TO LOS VEGAS

TODAY OVER THE PHONE, YOU ASKED ME ABOUT THE TWO TICKETS I RECEIVED FROM TRAVELTIME (AGENCY) FROM PHILA. PA - TO LOS VEGAS & RETURN.

R.J. ALSO ASKED ME ABOUT THE SAME ALLEGED TRIP - AND I XPLAINED IT TO HIM - I DID MY BEST TO XPLAIN IT TO YOU OVER PHONE - SO - I THO'T I'D RITE YOU AND CLEAR THIS MATTER (I HOPE) UP TO YOUR AND R.J. (& WHOEVER ELSE IS INTERESTED)

ONE DAY WHEN I WAS IN MIKE POLACK'S OFFICE IN BROOKLYN,

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

P. 2 of 2

WM. GLASE ESQ.

THE SUBJECT AROSE AS TO MY TAKING A TRIP TO ST MAARTEN, & POSSIBLY CURACAO, IN ORDER TO RETREIVE AS MANY "RECORDS" AS POSIBLE FOR THE (R.I) WASHINGTON STRIKE FORCE.

I TOLD MIKE THAT I DIDN'T HAVE THE FUNDS TO MAKE THE TRIP, AND ANYWAYS, AS THIS WAS MAINLY FOR THE BENEFIT OF THE STRIKE FORCE, THEY SHOULD BEAR THE EXPENSE.

MIKE TOLD ME TO SIGN A BLANK "VOUCHER" WHICH I DID AND PROMISED ME THAT HE WOULD DO THE BEST HE COULD TO GET AT LEAST $500.00 FOR THESE EXPENSES - BUT - HE CANNOT GUARANTEE THIS FACT.

J 506

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

WM-GEESE ESQ. P. 3 OF 5

ALTHO I DIDN'T RECEIVE A GUARANTEE FROM MIKE, AND KNOWING HOW IMPORTANT THE TRIP WAS, I TOOK THE FINANCIAL RISK AND BEGAN "LOOKING AROUND" FOR WAYS & MEANS TO RAISE THE FUNDS TO MAKE THIS TRIP - I CERTAINLY FELT THAT, AS THIS TRIP WAS FOR THE BENEFIT OF THE STATE FORCE, THEY WOULD REIMBURSE ME - (HOWEVER - SUCH WAS NOT THE CASE, THEY DIDN'T REIMBURSE)

I'm sorry I don't have the records when I [redacted] made the trip to SMX.

AS THE CROOKED LAWYERS, ON T.V. SAY, TO THE BEST OF MY RECOLLECTION, I CANNOT GIVE YOU, OR REMEMBER, THE POINT-IN-TIME - HOWEVER I'M SURE

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

P. 4 of 5

WM-GLASE ESQ.

YOU HAVE THE DATE(S) IN YOUR FILES.

TO GET TO THE "NITTY GRITTY" — PARNESS, FOR SOME REASON, WAS VERY ADAMANT ABOUT MY (NOT) GOING TO S.M.X — AND SUGGESTED I TAKE A VACATION — AT THAT "POINT-IN-TIME" — I LITERLY "JUMPED" AT THE OPPORTUNITY AND TOLD HIM TO SEND ME TWO, ROUND TRIP TICKETS — PHILA-LAS VEGAS-PHILA — WHICH HE (TRAVELTYME) DID —

I THEN HAD — ONE TICKET CASHED — AND AM ATTACHING COPY OF CHECK STUB SHOWING CASH REFUND. I THEN TRADED IN THE OTHER TICKET FOR ONE TO SMX — I'm SORRY I DON'T HAVE (OR I CAN'T LOCATE) MY CANCELLED TICKET TO SMX + CURACAO.

J 508

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

P.S. OF S

Wm GUISE ESQ.

I TRUST THIS CLEARS UP THE "TWO TICKETS TO LOS VEGAS" EPISODE - TO YOUR & R.V'S SATISFACTION.

INCIDENTLY - THIS IS THE TRIP I TOLD YOU WITERIN THE $300.00 CASH (FROM ONE TICKET) FAR FROM COVERED MY XPENSES - AND - (FOR THE FIRS TIME) I PURPOSLEY CASHED A $500.00 CHECK IN JAKE KOSLOFFS CASINO - SO - THAT I COULD PAY MY HOTEL BILL & GET OFF THE ISLAND (&) ISSUED A BAD CHECK

I STILL THINK THE STATE FARM & SHOULD HAVE, AT LEAST, SHARED IN THE XPENSES FOR THIS TRIP.

COPY TO
JAKE FOLLICK

Allan

STAPLE ATTACHMENTS BEHIND

M991760

REFUNDED TICKET

AIRLINE	FORM	SERIAL
[illegible]	[illegible]	[illegible]

NEW TICKET OR EXCHANGE

AIRLINE	FORM	SERIAL

FROM [illegible] TO [illegible]

☐ VOL. FARE 26 52

☐ INVOL. TAX 2 45

TOTAL 29 [illegible]

☑ UNUSED TICKET(S) ATTACHED

☐ UNUSED TICKET(S) LIFTED

FLIGHT _____ OF _____

☐ PTA REFUND AUTH. ATTACHED

☐ FARE ADJ. FROM _____ TO _____

FLIGHT _____ OF _____

☐ REROUTE ☐ EXCHANGE

☐ DENIED BDG. COMP. ☐ OVERSALE

☐

DETACH BEFORE CASHING

ONLY COPY AVAILABLE

COPY

P.O.B.O. 1578
LANCASTER
PA-17604

RETURN RECEIPT REQUESTED

CHIEF,
WM. GLASE ESQUIRE
C/O R.J. CAMPBELL ESQUIRE
U.S. DEPARTMENT OF JUSTICE
ROOM #2722
WASHINGTON
D.C.

20530

CERTIFIED
No. 436559
MAIL

J 510

J 511

Advocatenkantoor
Mr. P. P. C. H. VAN DE VOORT
Mr. P. HOUTMAN*
Mr. G. J. VAN WAGENINGEN

Voorstraat 3
(Naast Algemene Bank Nederland)
(Head of the town)

Sint Maarten, N.A.
P.O. Box 199
Tel. 2435

Ref.: Goberman/Note

RECEIVED
JAN 19 8 3½
DEPT. OF JUS
MAIL ROO
ORO

January 8th, 1973.

R.J. -
THANKS FOR THE
PROSPECTIVE COPY -
I SENT A COPY TO THESE
ATTY'S TODAY
Alec

Mr. Allan N. Goberman.
P.O. Box 1578,
104 Village Green Lane,
LANCASTER, Pa. 17604
U.S.A.

Fraud Section
JAN 22 1973
Criminal Division

Dear Mr. Goberman,

Your letter of December 29th 1972 was received here on January4, 1973.

In the meantime we sued St. Maarten Isle Hotel re: Note and the case was handled during the December Court-session; the case was delayed till the next Court-session in the second half of January. It might be possible that our opponents will obtain another postponment of the case till the February Session.

We did not proceed on the $ 20.000,- case and the casino agreement action since we should like to discuss some details with you, we hope to do so during you visit to St. Maarten.

I am not sure when Mr. van de Voort will be visiting St. Maarten but we will give you notice prior to his visit by cable.

My best wishes for 1973.

Sincerely yours,

P. Houtman

PH/mc

46-63-1173
36 JAN 1973
R.A.O.
CRIMINAL DIV.
Fraud Sec.

Aruba, Nassaustraat 53 (Caribbean Mercantile Bank Building), Oranjestad, Tel. 1255-3371, P.O. Box 326, Cable: vandevoort
*Rotterdam, Nederland, Westzeedijk 98, Eendrachtsweg 61 (Nolst Trenité, Hoogenraad en van Velzen).

CIVIL DIV.
Fraud

J 512

A.N.G

ST. MAARTEN ISLE HOTEL CORP. N.V.
P. O. Box 1378
Lancaster, Penn. 17604
U.S.A.

U.S.P.C. SERVICE STATE
N.Y.
A.M.
1973

EISENHOWER-USA

ROBERT J. CAMPBELL ESQ
ROOM 2722 Crim
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON
D.C.
20530

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

FRI - 2-2-73

DEAR R.J.

I CANT TELL YA HOW GOOD IT WAS TO TALK TO YA TODAY - AFTER YA HUNG UP - I FELT LIKE THE "SECOND RESSURECTION" I DID SOME THEROETICKING -

MILTON RUBIN ESQ. N. MIAMI BEACH
PHONES A/C 305 } OFFICE 949-7431
HOME - 947-0029

HE, ORIGINALLY FROM BOSTON = WAS F.F. (GOOD) FRIEND - CONFIDANTE - & I THINK ATTY. I MET HIM ONCE - AT SXM -
YOU MIGHT WANT TO CHECK HIM OUT

THE ONLY SAM MORRISON - WOULD BE A VERY VERY GOOD FRIEND OF PHIL PATZ - HE (WAS) IS A RETAILER LIVING & BUSINESS IN STEELTON PA - NEAR HARRISBURG - PLAYS STOCK MARKET HEAVY - IT'S POSSIBLE HE IS (A) RETIRED & LIVING IN MIAMI AREA - OR (B) JUST WINTERING IN MIAMI - RE YOUR QUESTION ABOUT TERRA SEE PURCHASE IT MIGHT BE WORTH YOUR TIME TO CHECK THIS OUT - AS EVER

J 514

2-14-73

R.V.

IN "ROOTIN" THRU
CLAUDE WATTHEY'S
FILE I FOUND THIS
COPY—
I THOT YOU WOULD
WANT TO SEE IT

EILANDGEBIED BOVENWINDSE EILANDEN
NEDERLANDSE ANTILLEN

GEZAGHEBBER VAN HET EILANDGEBIED
DE BOVENWINDSE EILANDEN

PERSONAL

Mr. Allan H. Goberman.
104 Village Green Lane. Box 1573
LANCASTER.PA.17604

Uw nummer (letter):
Uw brief van:
Ons nummer:
Onderwerp:
Philipsburg,
ST. MAARTEN N.A.
August 16, 1967
Bijlagen:

I am enclosing a copy of a letter received from Attorney Robert Feldman regarding the hotel plans of "Don Bini" made by Morris Lapidus Associates. Please do all possible so as to avoid another law suit on this project.

Regarding your letter of August 6, 1967, I only know Mr. Frank Ferrari by his visits to here, he states he is connected with a casino operation in Las Vegas. I most probably will be visit there next month, and I will know more of him. I would at least anyhow to continue talking to him as it appears he is well situated with the casino operation and may be helpful to us.

I hope you will be able to work out something with Morris on the construction material, both our Governments, (Island and Federal) will appreciate this.

With best wishes,

Sincerely,

Claudo Mathey.

J 516

MORGAN, LEWIS & BOCKIUS
123 SOUTH BROAD STREET
PHILADELPHIA, PA. 19109

ONLY COPY AVAILABLE

January 22, 1973

COPY

Honorable Ralph C. Body
3032 U. S. Court House
9th and Chestnut Streets
Philadelphia, Pennsylvania

COPY

RE: Hoffman v. Goberman,
Civil Action No. 68-1277

Dear Judge Body:

At your Honor's request, I have been able to reach Howard Rubin, Esquire, attorney of record for the defendant in the above matter, by telephone. Mr. Rubin is employed by the Internal Revenue Service and is no longer engaged in the practice of law. With Mr. Rubin's consent, I then communicated directly with his client, Allan N. Goberman. Mr. Goberman informed me that he will probably represent himself in further proceedings in the above-captioned matter. Accordingly, notice of a pre-trial conference should be sent directly to Mr. Allan N. Goberman, P. O. Box 1578, Lancaster, Pa. 17604.

Mr. Rubin's office telephone at the Internal Revenue Service, in the event that your Honor would desire to communicate with him, is (202)964-4355.

Respectfully yours,

Gregory M. Harvey

/cdg

cc: Mr. Allan N. Goberman

RJ - HAVE YOU ANY SUGGESTIONS IF I GO TO THIS "PRE-TRIAL" THING - THEY'LL (ATTY) MAKE MINCE MEAT OF ME - Allen

ONLY COPY AVAILABLE J 517

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

(1)

JANUARY 24th 1973

COPY

HONORABLE RALPH C. BODY
3062 UNITED STATES COURT HOUSE
9th AND CHESTNUT STREETS
PHILADELPHIA, PENNSYLVANIA - 19107

RE: HOFFMAN V. GOBERMAN
CIVIL ACTION NO. 68-1277

DEAR JUDGE BODY:

I TRUST YOU WILL NOT CONSIDER ME PRESUMPTIOUS BY WRITING DIRECTLY TO YOUR HONOR AS TO (A COPY ATTACHED) LETTER FROM GREGORY M. HARVEY ESQ., TO ME, I WISH TO STATE THE FOLLOWING.

(A) I'VE TRIED TO SECURE AN ATTORNEY TO REPRESENT ME.

(B) I'VE, SO FAR, BEEN UNSUCCESSFULL BECAUSE I SIMPLY DONT HAVE THE FUNDS TO PAY ONE.

(C) MY TOTAL INCOME IS $320.00 A MONTH, FROM SOCIAL SECURITY, WITH WHICH I AM ATTEMPTING TO SUPPORT MY WIFE & MYSELF

(D) MY FORMER ATTORNEY HAS THE FILES RELATIVE TO THIS CASE

(E) AS TO MR. HARVEY'S MENTION, IN HIS LETTER, THAT "MR. GOBERMAN INFORMED ME THAT HE WILL PROBABLY REPRESENT HIMSELF IN FURTHER PROCEEDINGS IN THE ABOVE CAPTIONED MATTER."

J 518

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

(2)

I WISH TO STATE THAT MY FORMAL EDUCATION WAS, NOT QUITE, COMPLETING GRAMMAR SCHOOL.

BECAUSE OF MR. HARVEY'S STATEMENT ABOUT MY DEFENDING MYSELF - I DONT WANT YOUR HONOR TO THINK THAT I WANT TO BE "SMART ALECKY" —

YOUR HONOR, WHERE DOES ONE TURN - WHERE DOES ONE GO - TO SECURE JUSTICE - UNDER THESE CIRCUMSTANCES.

RESPECTFULLY YOURS,

Allan N. Goberman

COPY

J 519

717-872-2591

ALLAN N. GOBERMAN
104 Village Green Lane P. O. Box 1578
LANCASTER, PA. 17604

3-12-73

ROBERT J. CAMPBELL ESQ.

DEAR MR. CAMPBELL!

ATTACHED IS COPY OF LETER TO GREG HARVEY ESQ ATTY FOR MR PATZ - MR GENZLER + MR. HOFFMAN, WHICH IS EXPLANATORY.

HIS (PATZ'S) VISIT WAS PURELY AND SIMPLY A "SCOUTING" EXHIBITION - THE QUESTIONS HE ASKED ME - LEADS ME TO BELIEVE THAT HE + GENZLER + HOFFMAN - (ARE +) HAVE SOME TIES WITH PARNESS -

HE (PATZ) STATED THAT PARNESS WAS IN BALTIMORE TRYING TO SELL THE "JOINT" - TO SOME LOCAL (BALT.) "RACKETEERS" ———

I GIVE YOU THE ABOVE FOR WHAT ITS WORTH

Allan N. Goberman

J 520

EXHIBIT 8

TRANSCRIPT OF TAPES

J 521

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	
- against -	:	73 Cr. 770
MILTON PARNESS and BARBARA PARNESS,	:	REPLY AFFIDAVIT
Defendants.	:	

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

MICHAEL ROSEN, being duly sworn, deposes and says:

I am a member of Saxe, Bacon & Bolan, P.C., attorneys for Milton Parness, one of the defendants herein. I make this affidavit in reply to the Second Supplemental Affidavit of Joel N. Rosenthal in opposition to defendant's motion for a new trial and reduction of sentence and further in support of said applications.

PRIOR PROCEEDINGS ON THE MOTIONS FOR A NEW TRIAL

In January, 1975, the defendants moved pursuant to Rule 33 of the Federal Rules of Criminal Procedure for a new trial. Their application was based on several distinct areas of prosecutorial misconduct. To wit:

1. Allan Goberman, the prosecution's witness-in-chief, testified falsely as to material matters which directly dealt with the guilt or innocence of the defendants.

2. That the prosecution had known or should have known of Goberman's false testimony, but failed to advise either the court or defense counsel of its witness' patent perjury.

3. That new evidence had been discovered which, if presented to the jury, would probably have produced a different verdict, and

4. The prosecution had suppressed evidence exculpatory to the defense including, but not limited to, the fact that the prosecution had promised Goberman to get his hotel back for him

in return for his testimony. (See defendants' motion papers dated January 22, 1975 and Supplemental Affidavit of February, 1975.)

These allegations were supported by a number of depositions given by Goberman and John Biandino in a Civil Action commenced by Goberman against the defendants; Goberman's assertions before a United States District Judge in the District of New Jersey; as well as a polygraph examination of the defendant Parness (see defendant's Supplemental Affidavit of January 28,1975 in which we offered to make Mr. Parness "available to the government in any manner which they customarily use for truth verification.")

In opposition, the prosecution urged that the defendant's evidence was not newly discovered "but if it were, the verdict would still have been the same," and denied the suppression or that promises were made claiming that Goberman's statements of a promise were unsworn and ambiguous.*

Following the defendant's reply, we learned for the first time that the prosecution had failed to turn over to the defense or to the Court for an in-camera inspection a number of "statements" in the form of letters by Goberman to various members of the prosecution staff concerning prosecution's promises to him. (See defendant's letters of March 24 and March 25, 1975, addressed to this Court.)

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* It should be noted that at the time of its response, the government's allegations that no promises were made were wholly unsupported by documentary or testimonial evidence.

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Thereafter, on or about August 1, the defense was served with the prosecution's answer to these allegations and in opposition to its motion for reduction of sentence made on May 12, 1975*

In opposing the defendant's motion, the prosecution's papers urge that the 'Goberman letters' "were neither 3500 nor Brady material and were not required to be turned over" and submit the affidavits of Messrs. McGuire, Dowd, Patrick and Campbell (conspicuously absent are affidavits from Goberman and William Glaze who was the lead Agent on the case) which the prosecution claims negate any evidence of promises and contains an apology for not disclosing these highly relevant 'Goberman letters.' The prosecution further urges that "in large part, the letters are cumulative of other Goberman 3500 material furnished to the defense." In support of this theory, the prosecution has submitted the transcript of a lengthy tape recording debriefing which the defense was precluded to hear prior to trial. **

As will be detailed below, the Goberman letters were both 3500 and Brady material; were material not cumulative and probably would have resulted in a different verdict. Moreover, a careful analysis of the affidavits of the prosecution's staff, juxtaposed with Goberman's statements, reveals that despite the affidavits submitted, significant promises were in fact made.

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* The defendant's reply to the prosecution's answer to the motion to reduce will be treated separately infra. [illegible] P. 8.

** Parenthetically, prior to the instant motion, no transcript of this was ever disclosed to the defense - Yet another example of prosecutor's philosophy that a criminal trial is merely a game of wits between opposing counsel, the cleverer party or the one with greater resources to be the winner.

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I. THE GOBERMAN LETTERS AS 3500 MATERIAL

There is no question that the so-called "Norber transaction" related generally to the events and activities testified to in Goberman's direct testimony. United States v. Cardillo, 316 F.2d 606, 615 (2nd Cir., 1967). Nevertheless, the prosecution, without any authority, states that signed letters by Goberman to government agents relating to that transaction and the distribution of the proceeds was not 3500 material.

Title 18, §3500 states where relevant:

> "(b) After a witness called by the United States has testified on direct examination, the court shall, on motion of the defendant, order the United States to produce any statement (as hereinafter defined) of the witness in the possession of the United States which relates to the subject matter as to which the witness has testified. If the entire contents of any such statement relate to the subject matter of the testimony of the witness, the court shall order it to be delivered directly to the defendant for his examination and use.
>
> * * *
>
> (e) The term 'statement' as used in subsections (b), (c), and (d) of this section in relation to any witness called by the United States, means - -
>
> (1) a written statement made by said witness and signed or otherwise adopted or approved by him;'

Perusal of the statute establishes beyond paradventure that Goberman's letters are 3500 material. The prosecution's contention that the letters were in large part cumulative by the tapes furnished the defense is totally belied by transcripts of the tapes themselves. Only in one instance on the tapes is there a discussion of the subject matter contained in the letters.

From the undisclosed "Goberman letters" there can be now not a single doubt in the world that the $60,000 coming from Sam Norber was intended for Goberman and not Parness, as urged by the prosecutor to the jury. Mr. McGuire, in summation, stated:

> "Now, it wasn't $150,000 in cash. And that, I suggest to you, is very significant, because I suggest to you that the evidence shown that Mr.

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> Parness planned that it would be all in cash, and at the last minute his plans were thwarted because in late January of 1971 a man named Sam Garber, who was bringing $60,000 in cash to New York, got nabbed by the feds, and the cash wasn't available.
>
> * * *
>
> "And so, at the last minute a golden calf was created, ladies and gentlemen. And unhappily, and I'm sure much against his will, he had to draw some money out of a bank account. There is the golden calf, Exhibit 40. If you remember one thing in the case, remember that." (Tr. 1660-1661)
> (Emphasis supplied)*

Thus, had the government turned over the Goberman letters to the defense, as it should have, there would have been no possibility that this flagrant misstatement of facts could have survived going to the jury. In any event, the government knew what the true facts were regarding the Garber transaction and intentionally misled the jury as the Goberman letters graphically demonstrate.

Thus, under the sanctions imposed by §3500, Goberman's direct examination should be stricken and a new trial ordered.

II. GOBERMAN'S LETTERS AS BRADY MATERIAL

In United States v. Pacelli, 491 F.2d 1108, (2nd Cir., 1973), the prosecution found themselves in a position similar to the one in the instant case. In Pacelli, the prosecution argued, as here, that the inadvertent failure to disclose [illegible] to be its chief witness to one of the prosecutors was, at most, harmless error.**

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* This erroneous and misleading argument was also urged by the government to the Court of Appeals:

> "Unfortunately for Parness, the $60,000 was seized by the Internal Revenue Service before its delivery to Parness. In all probability it was this untimely seizure that forced Parness to use the telltale olympic account to supply the balance of the money to be loaned to Goberman." (Government brief, p. 23)

Parenthetically, it must be noted that the Court of Appeals accepted this argument when it wrote:

> "Shortly before the Goberman loan, as noted above, agents of the Internal Revenue Service seized $60,000 in cash market collections intended for Parness."

** See affidavit of John A. Dove, Exhibit C, pp. 1-4.

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The Court disagreed and held:

> "Accepting the government's position that these qualifications were important, we cannot agree with its characterization of them as 'baseless smear.' Although appellant's counsel possessed an undisclosed investigative material which he exploited at trial, most of this information conveyed quite the opposite of Glosky's letter to Morvillo the desperate state of Lipsky's mind after he had caused a mistrial by perjuring himself in the previous unsuccessful prosecution against Pacelli. The letter, furthermore, contains a blatant lie to the effect that his perjury, which caused the mistrial, had been unintentional rather than deliberate. Appellant's counsel would probably have sought to make this letter the "capstone" of his attack on Lipsky's credibility, cf. United States v. Miller, supra, and argued that it revealed a trouble - even mentally disturbed - person who was ready to tell any lie to anyone in order to save himself from a murder conviction in the state court. Denial of the opportunity to use such powerful impeaching material bearing on the credibility of the government's key witness mandates a new trial." (491 F.2d at p. 1119)

So, too, in the instant case, the defense could have used the Coberman letters as one of the "capstones" of his cross-examination to demonstrate that Coberman had lied when stating he did not "solicit" any junkets or directly receive the proceeds thereof; that the government had promised to aid him in the recovery of his $50,000 and that Coberman was ready to lie in order to curry the favors of the government (See A74 et. seq.).* There is no doubt, therefore, that these letters meet the test enunciated in United States v. Keogh, 391 F.2d 138 (2d Cir. 1968). Moreover, we submit that the "Keogh" standard is met herein inasmuch as the evidence suppressed was of a "high value that could not have escaped the (prosecution's) attention." Consequently a new trial is warranted because the suppression of evidence is both material and favorable to the defense.

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* This information was critical inasmuch as the cornerstone of the prosecution's case was that Petrosa was the "exclusive" collector of monies. The Coberman letters refute that theory.

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United States v. Kooner, ___ F.2d ___ (2nd Cir., April, 1975) Slip. Op. 3245, 3250; United States v. Kahn, 472 F.2d 272, 289 (2nd Cir., 1973). For example, the defense was entitled to bring before the jury the fact that Coberman sought Campbell's aid in avoiding a deposition in a civil suit brought by Coberman's associate at the hotel fearing that his adversary would "use something out of me." (Exhibit 7, letter of January 22, 1973.)

III. THE PROMISES MADE TO COBERMAN

Even more significant than the revelations dealing with the Barber transaction are the disclosures made in the affidavits of each of the "prosecution team" relating to the promises or non-promises made by them for the return of Coberman's hotel.

Robert J.Campbell, the attorney in charge of "Strike Force 18" and the supervisor of the instant prosecution, swore in an affidavit dated July 10, 1975 that:

> "that to the best of[his] present recollection neither he nor, to his knowledge, any other federal employee ever intimated, suggested, represented or promised to Coberman that the United States Government would in anyway aid him in recovering his hotel and casino in St. Maarten, Netherlands Antilles."

Coberman, on the other hand, in a sworn complaint submitted in the United States District court for the Eastern District of Pennsylvania entitled Allan N. Coberman v. The United States of America, 74 Civ. 3230, states:

> "70. Robert J. Campbell Esquire, Chief, Strike Force 18 Washington D.C., advised plaintiff (Coberman) that Quote ' the Government [illegible] to convict the Racketeers who stole the Hotel away from you and have it returned to you'." (Emphasis supplied.)*

A copy of said complaint is annexed hereto as defendant's Exhibit 1.)

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* It is significant to note that this paragraph of Coberman's complaint follows immediately after two paragraphs of the complaint wherein Coberman alleges his cooperation with the government in obtaining the indictment against Barnes. (pp. 68 and 69).

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See also Goberman's statements to United States District [illegible]. Cir. is Proper that the government promised to get his [illegible] back for him (Trans. of February 24, 1975, pp. 17-18).

Accordingly Mr. Campbell's "best present recollection" [illegible] Trans. See United States v. Grijo, ___ F.2d ___ (2d Cir., April 23, 1975) Docket #74-2313; Slip op. pp. 3051-3054, and the cases cited therein.

In an affidavit sworn to by Harold F. McGuire, the Assistant United States Attorney who was in charge of trying the instant case, it is alleged that although Goberman demanded the government's help in recovering his hotel, they categorically refused. At that point, according to Mr. McGuire, Goberman refused to further cooperate with the government (Exh. 1, paragraph 4).

[illegible] been made available to the defense, it would have provided an extremely valuable line of cross-examination concerning Goberman's true motivation for cooperating, i.e. to have the government act as his collection agent - and when the government refused - he refused to cooperate further.*

Under all these circumstances and for the reasons urged in our foregoing papers on the motion for a new trial, we believe that a hearing is required to resolve serious questions of fact [illegible] upon such hearing to grant the defendants a new trial.

[illegible] REDUCTION OF SENTENCE

In opposing the defendant's motion to reduce his sentence, the government belittles the array of sentencing disparity [illegible] under the auspices of the Chief Judge of the Court of Appeals and urges that no factual comparisons are made with "live" [illegible]. While that may be true, it is because the defendant

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* See also the affidavit of Michael Pollack, who was, in essence, told to mind his own business when he attempted to reconcile Goberman with Mr. Campbell. Certainly the jury should have been advised of Mr. Pollack's "special" treatment of Goberman, his struggle on his behalf, and the obvious personal [illegible] between Goberman and prosecutor Pollack, as revealed in Goberman's letters.

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lacks the financial and physical resources to undertake a statistical comparative analysis suggested by the prosecution. Nevertheless, the United States Attorney for the Southern District of New York has undertaken such a study. See Sorkow, 1972 Sentencing Study for the Southern District of New York, New York State Bar Journal, April, 1973, Vol. 45, No. 3. That study revealed that the average length of prison sentences for those convicted of crimes comparable to the defendant's in the Southern District of New York was 18.1 months, as compared to the 120 months imposed upon the defendant.

In view of this study, the exemplary behavior exhibited by the defendant since his conviction, as well as the recommendations of the American Bar Association described in defendant's moving papers, we respectfully submit that the sentence previously imposed on Mr. Barnes was excessive and should be reduced.

WHEREFORE, for all of the above described reasons, your deponent respectfully prays that this Court grant a hearing on the defendant's motion for a new trial and upon said hearing, to grant this application for a new trial, or, in the alternative, to reduce the defendant's sentence previously imposed.

RICHARD KUH

Sworn to before me this
8th day of August, 1975

Susan Bell

SUSAN BELL
NOTARY PUBLIC, STATE OF NEW YORK
No. 31-4507703 New York County
Commission Expires March 30, 19__

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Complnt

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

ALLAN N. GOBERMAN
PLAINTIFF
v.
THE UNITED STATES OF AMERICA
DEFENDANT

CIVIL ACTION
NO. 74-3230

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COMPLAINT

1. THE PLAINTIFF IS ALLAN N. GOBERMAN, WHO RESIDES AT 104 VILLAGE GREEN LANE, LANCASTER, PENNSYLVANIA. HIS MAILING ADDRESS IS POST OFFICE BOX 1578, LANCASTER, PENNSYLVANIA, 17604.

2. THE DEFENDANT IS THE UNITED STATES OF AMERICA.

3. JURISDICTION IN THE FEDERAL COURT IS CONFERRED BY TITLE 28 U.S.C. SECTION §1346(b).

4. ON JUNE 11, 1974, PLAINTIFF MAILED (BY CERTIFIED MAIL) TO WILLIAM SAXBE, ATTORNEY GENERAL, DEPARTMENT OF JUSTICE, WASHINGTON D.C., A CLAIM FOR $7,500,000.00 FOR DAMAGES RESULTING FROM THE INVASION OF PLAINTIFF'S PRIVACY BY DEFENDANT, AND THEREIN SETTING FORTH THE SAME FACTS AS SET FORTH IN THIS COMPLAINT

4A. WITHIN THIS SIX MONTHS PERIOD THE DEPARTMENT OF JUSTICE DID NOT RESPOND OR MAKE ANY DISPOSITION OF PLAINTIFF'S CLAIM.

4B. BEGINNING IN 1967, THE PLAINTIFF, A WELL-TO-DO CONSTRUCTION MAN, BEGAN TO INVEST IN THE ST. MAARTEN HOTEL CORPORATION N.V. WHICH OWNED AN INSOLVENT AND PARTIALLY COMPLETED HOTEL, ON THE ISLAND OF ST. MAARTEN, NETHERLANDS ANTILLES

EXHIBIT 1

5.. THE PLAINTIFF WAS TO CONSTRUCT A HOTEL, AS A BUILDING CONTRACTOR FOR OTHERS, ON THE ISLAND OF ST. MARTEN, NETHERLANDS ANTILLES.

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6.. THE HOTEL WAS TO CONTAIN 160 ROOMS, ALSO EXTENSIVE PUBLIC AREAS, WHICH WAS TO CONTAIN, AMONG OTHER FUNCTIONS PREVELANT IN A RESORT HOTEL, A GAMBLING CASINO. GAMBLING BEING LEGAL IN THE NETHERLANDS ANTILLES AND A NUMBER OF GAMBLING CASINOS HAVE BEEN OPERATING THROUGHT THE NETHERLANDS ANTILLES.

7. SHORTLY AFTER THE FACTS OUTLINED ABOVE IN NUMBERS 4-5 AND 6, BECAME PUBLIC KNOWLEDGE, THE DEFENDANT, THRU IT'S DELEGATES, MADE THE ERRONEOUS DETERMINATION THAT THE PLAINTIFF WAS A RACKETEER AND A MEMBER OF ORGANIZED CRIME AND WAS INDEED ASSOCIATED WITH AND FRONTING FOR VARIOUS WIDER WORLD GROUPS.

8.. RELYING ON THIS ERRONEOUS DETERMINATION THE DEFENDANT BEGAN, AND SUSTAINED, AN ALL OUT ATTACK ON THE PLAINTIFF, TO PROVE THAT THE PLAINTIFF WAS INDEED NOT A LEGITIMATE BUSINESSMAN, BUT WAS INDEED A COMMON GAMBLER, A RACKETEER AND A MEMBER OF ORGANIZED CRIME.

J 532 9.. THE DEFENDANTS DELEGATES WERE EMPLOYEES OF THE VARIOUS STRIKE FORCES, OF THE JUSTICE DEPARTMENT, IN PHILADELPHIA PENNSYLVANIA, BROOKLYN NEW YORK AND WASHINGTON DISTRICT OF COLUMBIA.

10.. OTHER DEFENDANTS DELEGATES WERE EMPLOYEES OF THE INTERNAL REVENUE SERVICE, WORKING DIRECTLY UNDER ORDERS OF THE JUSTICE DEPARTMENT'S STRIKE FORCES

11.. ON JUNE 24, 1970, THE PLAINTIFF WAS INDICTED BY THE DEFENDANT (Cr.#1479-4) FOR "MAKING A FALSE STATEMENT TO A FEDERAL SAVINGS AND LOAN ASSOCIATION— UNDER - 18 U.S.C. 1014.

12.. ON JUNE 26, 1970, THE UNITED STATES ATTORNEY, FOR THE MIDDLE DISTRICT OF PENNSYLVANIA, PUBLICLY STATED THAT, QUOTE:

"THE INVESTIGATION OF PLAINTIFF IN THIS CASE IS UNUSUAL BECAUSE IT INVOLVED A TEAM EFFORT BETWEEN THE INTERNAL REVENUE SERVICE AND THE UNITED STATES JUSTICE DEPARTMENT'S PHILADELPHIA TASK FORCE AGAINST ORGANIZED CRIME"

13: AT THIS SAME TIME THE PLAINTIFF'S ATTORNEY ADVISED HIM THAT DEFENDANT HAD PLACED PLAINTIFF'S NAME AMONG THE TOP TEN LIST OF RACKETEERS AND AS SUCH THE DEFENDANT WAS OUT "TO GET" PLAINTIFF

14. ON JULY 7, 1970, THE UNITED STATES ATTORNEY, FOR THE MIDDLE DISTRICT OF PENNSYLVANIA, PUBLICLY STATED THAT, QUOTE:

"THE INVESTIGATION OF PLAINTIFF WAS CONDUCTED BY THE INTERNAL REVENUE SERVICE WORKING IN CONJUNCTION WITH THE UNITED STATES ATTORNEY GENERAL'S PHILADELPHIA STRIKE FORCE WHICH IS INVESTIGATING ORGANIZED CRIMES ACTIVITIES IN INTERNATIONAL GAMBLING AND INFILTRATION INTO LEGITIMATE BUSINESS!"

15. ON JULY 15, 1970, THE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF PENNSYLVANIA, PUBLICLY STATED THAT, QUOTE:

"THE INTERNAL REVENUE SERVICE AUDIT OF THE PLAINTIFF IS "UNUSUAL" IN THAT THE INTERNAL REVENUE SERVICE HAD BEEN COLLABORATING WITH THE UNITED STATES ATTORNEY GENERALS STRIKE FORCE IN PHILADELPHIA, ONE OF AN ESTIMATED TWENTY SUCH FORCES SITUATED IN PRINCIPAL CITIES THRUOUGHT THE NATION AND CHARGED WITH INVESTIGATING ORGANIZED CRIME INVOLVEMENT IN INTERNATIONAL GAMBLING AND IN LEGITIMATE BUSINESS IN THIS COUNTRY"

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16. ON OR ABOUT SEPTEMBER 1, 1970 THE INTERNAL REVENUE SERVICE, UNDER ORDERS OF THE PHILADELPHIA STRIKE FORCE, LAUNCHED AN INVESTIGATION OF PLAINTIFFS PERSONAL TAX RETURNS AND TAX RETURNS OF SIX CORPORATIONS CONTROLLED BY THE PLAINTIFF.

17. ON NOVEMBER 6, 1970, THE UNITED STATES ATTORNEY, FOR THE MIDDLE DISTRICT OF PENNSYLVANIA, PUBLICLY STATED, QUOTE:

"HIS STAFF WILL NOT HANDLE THE CASE (U.S. OF A. V ALLAN N. GOBERMAN C.A. #14791) BUT, THAT A UNITED STATES SPECIAL ATTORNEY, ASSIGNED TO THE JUSTICE'S DEPARTMENT SPECIAL STRIKE FORCE IN PHILADELPHIA (ONE) ROBERT OZER HAS BEEN SELECTED AND THAT THE STRIKE FORCE INSTITUDED THE INTERNAL REVENUE SERVICE'S INVESTIGATION OF GOBERMAN'S FINANCIAL AFFAIRS WHICH LED TO HIS INDICTMENT

18. THE DEFENDANTS CASE AGAINST THE PLAINTIFF (U.S.A. V ALLAN N. GOBERMAN C.A. #14794) DURING THE TRIAL WHICH BEGAN NOVEMBER 9, 1970, WAS TO PROVE TO THE COURT THAT THE PLAINTIFF DID INDEED MAKE A FALSE STATEMENT TO A FEDERAL SAVINGS AND LOAN ASSOCIATION — 18 U.S.C. 1014.

19.. DEFENDANTS ATTORNEYS ATTACK WAS TO PROVE THAT PLAINTIFF KNOWLINGLY OVERSTATED HIS NETWORTH AND PRESENTED, TO THE COURT, A NUMBER OF WITNESESS, FOR DEFENDANT, WHO WERE EMPLOYED BY DEFENDANT.

20.. ONE SUCH WITNESS, (A) MARTIN SCHWARTZ, WHO STATED THAT HE WAS AN OFFICIAL APPRAISER FOR THE INTERNAL REVENUE SERVICE, STATED (AND IT WAS INTRODUCED AS EVIDENCE) THAT A LARGE NUMBER OF IMPROVED BUILDING LOTS, WHOSE VALUE WAS SHOWN ON THE ALLEGED FALSE STATEMENT AT $ 1,400^{00} EACH, WERE ACTUALLY NOT WORTH MORE THAN $ 500^{00} EACH, THEREFORE "PROVING" THAT PLAINTIFF OVER-STATED HIS NETWORTH (ON THIS ONE OF SEVERAL) IN THE AMOUNT OF $ 64,000^{00}. ALL THIS WAS PLACED IN EVIDENCE.

21.. ON SEPTEMBER 7, 1972, THE DEFENDANT INDICTED THE PLAINTIFF (U.S.A. & ALLAN N. GOLDSMITH — Cr. 72-499) FOR UNDER STATING INCOME, AND AMONG LIST OF ITEMS - WAS LISTED THE VERY SAME IMPROVED BUILDING LOTS, REFERRED TO IN #20.. CLAIMING THAT PLAINTIFF REPORTED SALE OF 54 SAID LOTS, AT $ 1,400^{00} EACH, WHEREAS THE INTERNAL REVENUE SERVICE DETERMINED THAT SAID LOTS WERE INDEED WORTH $ 2600^{00} EACH: AND - INDICTING PLAINTIFF FOR UNDERSTATING INCOME BY $ 61,950^{00}.

#22. PLAINTIFF AVERS THAT THE FALSE AND UNSCRUPULOUS AND HIGH-HANDED METHODS USED BY DEFENDANT WAS INDICATIVE OF DEFENDANTS DESIRE TO GO ALL OUT "TO GET" PLAINTIFF.

#23.. ON NOVEMBER 10, 1970 THE TRIAL, (U.S.A. V. GOBERMAN Cr. #1794) WHICH WAS HELD WITHOUT JURY, ENDED, AND THE PRESIDING JUDGE STATED HIS VERDICT WOULD BE FORTHCOMING IN THE VERY NEAR FUTURE.

#24.. ON MARCH 9, 1971 AN ARTICLE APPEARED IN THE LANCASTER NEW ERA, NEWSPAPER, PLAINTIFF AVERS THAT THIS ARTICLE WAS BASED ON SHEER HERESAY AND FICTION AND WAS SO PLANTED IN CO-OPERATION WITH DEFENDANTS DELEGATES, IN ORDER TO LAY THE GROUND WORK FOR FORTHCOMING ALLEGATIONS, AGAINST PLAINTIFF, BY DEFENDANT.

#25. ON MAY 13, 1971, PLAINTIFF WAS SERVED WITH AN ORDER, SIGNED BY JUDGE NEALON, THE PRESIDING JUDGE OF THE TRIAL (U.S.A. V. GOBERMAN Cr. #1794), WHICH ENDED NOVEMBER 10, 1970.

#26.. SAID ORDER WAS TO HAVE PLAINTIFF APPEAR BEFORE JUDGE NEALON ON MAY 24 1971, UPON "CONSIDERATION OF THE UNITED STATES PETITION FOR REVOCATION OR MODIFICATION OF BAIL". AT WHICH SAID TIME PLAINTIFF WAS "TO SHOW CAUSE WHY HIS BAIL SHOULD NOT BE REVOKED OR MODIFIED"

#27. PLAINTIFF AVERS THAT DEFENDANT'S REQUESTING OF SAID ORDER, OUTLINED IN #26, WAS JUST ANOTHER "MOVE" TO GET "PLAINTIFF BY KEEPING PLAINTIFF FROM OPERATING HIS HOTEL IN ST. MAARTEN, NETHERLANDS ANTILLES, AND THEREFORE PUTTING PLAINTIFF OUT OF BUSINESS, ALL THIS BASED UPON THE DEFENDANTS ERRONEOUS DETERMINATION THAT PLAINTIFF WAS NOT A LEGITIMATE BUSINESS MAN, BUT WAS INDEED A COMMON GAMBLER, A RACKETEER AND A MEMBER OF ORGANIZED CRIME.

#28: DEFENDANT WAS WELL AWARE THAT PLAINTIFF WAS GIVEN PERMISSION BY JUDGE NEALON TO TRAVEL TO PLAINTIFF'S BUSINESS IN ST. MAARTEN, NETHERLANDS ANTILLES.

#29: THE "UNITED STATES PETITION FOR REVOCATION OR MODIFICATION OF BAIL" WAS SUBMITTED TO THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA AND WAS "RESPECTFULLY SUBMITTED AND SIGNED BY (ONE) S. JOHN COTTONE, UNITED STATES ATTORNEY AND BY (ONE) ROBERT C. OZER, SPECIAL ATTORNEY

#30. PLAINTIFF AVERS THAT THE "FACTS," THAT "THE UNITED STATES OF AMERICA, BY IT'S ATTORNEYS S. JOHN COTTONE AND ROBERT C. OZER (IN #29) REPRESENTED TO "THIS HONORABLE COURT," WERE IN FACT FALSE AND UNTRUE AND (BY) THEIR PRESENTATION TO "THIS HONORABLE COURT" DEFENDANT, ONCE AGAIN, DETERMINED "TO GET" PLAINTIFF AND PUT HIM OUT OF BUSINESS.

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#31. ATTACHED TO THE PETITION, REFERRED TO IN NUMBERS 25 TO AND INCLUDING 30, WAS AN AFFIDAVIT, SWORN TO AND SUSCRIBED BEFORE, DEPUTY CLERK ON MAY 13, 1971, BY ANOTHER DELEGATE OF DEFENDANT, (ONE) WILLIAM F. GLASE, SPECIAL AGENT, INTERNAL REVENUE SERVICE.

#32. SAID AFFIDAVIT, REFERRED TO IN #31, CONTAINS TEN SEPERATE SETS OF ALLEGED "TRUE FACTS". PLAINTIFF AVERS THAT SEVEN OF THESE TEN "TRUE FACTS" WERE UNTRUE AND FALSE AND THAT THE DEFENDANT'S DELEGATE WELL KNEW THAT THESE SEVEN ALLEGED "TRUE FACTS" WERE INDEED UNTRUE AND FALSE. PLAINTIFF AVERS THAT DEFENDANT'S DETERMINATION "TO GET" PLAINTIFF, WAS SO OVERWHELMING, THAT DEFENDANT WOULD HAVE THEIR DELEGATES COMMIT PERJURY AGAINST PLAINTIFF.

#33. PLAINTIFF FURTHER AVERS THAT THE REMAINING SETS OF ALLEGED "TRUE FACTS" PRESENTED BY THE DEFENDANT WERE PLANTED ON PURPOSE IN ORDER TO PRESENT TO JUDGE NEALON, PRESIDING JUDGE (U.S.A. V GOBERMAN & 1971) WITH ALLEGED FACTS, WHICH OCCURED AFTER THE ACT, THE ENDING OF TRIAL ON NOVEMBER 10, 1970, AND TO INDUCE OR PERSUADE SAID JUDGE TO HAND DOWN HIS DECISION, AS FULLY SIX MONTHS HAVE PASSED SINCE THE END OF SAID TRIAL AND THE DEFENDANT WAS ANXIOUS TO HAVE PLAINTIFF CONVICTED AND INCARCERATED THEREBY PUTTING HIM OUT OF BUSINESS

#34.. PLAINTIFF APPEARED BEFORE JUDGE NEALON, IN ORDER TO "SHOW WHY HIS BAIL SHOULD NOT BE REVOKED OR MODIFIED" ON DATE ORDERED. THE JUDGE ANNOUNCED THAT HE WAS NOT GOING TO ENTER INTO THE MATTER OF SAID ORDER, BUT INSTEAD (AFTER SIX MONTHS) HAD DECIDED TO ISSUE HIS VERDICT INSTEAD. (U.S.A. V GOBERMAN Cr. 14794).

#35.. DURING OPEN COURT, BEFORE JUDGE NEALON, DEFENDANTS SPECIAL ATTORNEY, ROBERT C. OZER, PUBLICLY STATED, QUOTE:

" THE STRIKE FORCE WAS OUT TO GET PLAINTIFF AND THAT WITHIN SIX MONTHS THE PLAINTIFF WILL FACE ADDITIONAL CRIMINAL PROSECUTION BY THE STRIKE FORCE "

SPECIAL ATTORNEY OZER ALSO BROUGHT TO THE ATTENTION OF THE PRESIDING JUDGE, FACTS AFTER THE ACT, BEFORE THE JUDGE STATED HIS VERDICT AND SENTENCE.

#36.. ON OCTOBER 29, 1971, PLAINTIFF WAS SERVED WITH A SUBPOENA TO TESTIFY BEFORE A GRAND JURY ON NOVEMBER 8, 1971, AT THE UNITED STATES DISTRICT COURT, FOR THE EASTERN DISTRICT FOR NEW YORK, AT WHICH TIME PLAINTIFF WAS TO BRING ALL BOOKS, RECORDS ETC. OF THE ST. MAARTEN ISLE HOTEL. THIS SUBPOENA WAS ISSUED ON APPLICATION OF THE UNITED STATES GOVERNMENT, WITH SPECIAL ATTORNEY MICHAEL J. POLLACK . . . .

. . . . CONT'D #36. . . .

Cont. of 35... PLAINTIFF APPEARED BEFORE THE GRAND JURY AS A WITNESS RE: CRIMINAL FOLDER # 715,920. ON THIS SAME DAY PLAINTIFF AND SPECIAL ATTORNEY POLLACK SPENT A NUMBER OF HOURS TOGETHER AND AS A RESULT OF THIS MEETING PLAINTIFF DECLARED THAT HE COULD CLEAR AWAY THE ERRONEOUS DETERMINATION THAT HE WAS A RACKETEER AND A MEMBER OF ORGANIZED CRIME. FURTHERMORE, WHEN (AND IF) DEFENDANTS IS CERTAIN THAT THEY HAVE BEEN MISTAKEN ABOUT PLAINTIFF'S POSITION... PLAINTIFF WOULD THEN SHOW DEFENDANT AND CO-OPERATE WITH DEFENDANT AND BE A WITNESS FOR DEFENDAND, THE ACTUAL LEADERS, GAMBLERS, RACKETEERS AND THE MEMBERS OF ORGANIZED CRIME WHO ACTUALLY INFILTRATED PLAINTIFF'S LEGITIMATE BUSINESS ON ST. MAARTEN, NETHERLANDS ANTILLES.

37. THE ONLY PROMISE PLAINTIFF ASKED FOR, IF NECESSARY, ACTUAL PHYSICAL PROTECTION FOR PLAINTIFF AND/OR PLAINTIFF'S FAMILY. DEFENDANTS DELEGATE (POLLACK) THAT HIS WISH AND DESIRE FOR PROTECTION IS FORTHWITH GRANTED AND THAT FURTHERMORE, DEFENDANT WOULD, IF PLAINTIFF SO DESIRED, ARRANGE FOR A COMPLETE NEW IDENTITY, AND RE-LOCATE PLAINTIFF AND IF NECESSARY, MEANS OF EARNING A LIVELIHOOD FOR PLAINTIFF

38.. SHORTLY AFTER THE NOVEMBER 8, 1971, MEETING WITH DEFENDANTS SPECIAL ATTORNEY (FELLING), PLAINTIFF WAS CONTACTED BY (ONE) ROBERT CAMPBELL ESQUIRE, CHIEF, STRIKE FORCE #16, WASHINGTON D.C., WHO ADVISED PLAINTIFF THAT HE (CAMPBELL) WOULD BE IN CHARGE AND WORKING WITH PLAINTIFF. SOMETIME BETWEEN NOVEMBER 8, 1971 AND MARCH 13, 1972, DEFENDANT'S COUNCIL, CAMPBELL, MADE A PERSONAL VISIT TO PLAINTIFF AT (HIS) PLAINTIFF'S HOME IN LANCASTER PENNSYLVANIA, IN ORDER TO COME FACE TO FACE WITH PLAINTIFF AND TO VISIT AND SEE PLAINTIFF IN HIS OWN SURROUNDINGS, IN ORDER TO HELP HIM (CAMPBELL) TO DECIDE ON PLAINTIFF'S CREDITABILITY. HE (CAMPBELL) WAS ACCOMPANIED BY WILLIAM GLASE AND HOWARD EISLER, BOTH SPECIAL AGENTS OF INTERNAL REVENUE SERVICE.

39.. ON MARCH 13, 1972, SPECIAL AGENTS, INTERNAL REVENUE SERVICE, WILLIAM GLASE AND HOWARD EISSLER, UNDER THE DIRECTION OF (CAMPBELL) STRIKE FORCE #16, SPENT TWO DAYS AT PLAINTIFF'S HOME, AT WHICH TIME PLAINTIFF GAVE CERTAIN INFORMATION TO DEFENDANT, THIS INFORMATION WAS RECORDED ON A NUMBER OF RECORDED TAPES BY SAID SPECIAL AGENTS. DEFENDANT NEEDED SAID RECORDED INFORMATION AS PART OF THE FORTHCOMING INDICTMENT AGAINST THE RACKETEERING MEMBERS OF ORGANIZED CRIME UNDER INVESTIGATION. ALTHO PLAINTIFF WAS PROMISED A COPY OF RECORDED TAPES OR THE WRITTEN TRANSCRIPT OF SAME, DEFENDANT [illegible]

12.

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40.. SOMETIME SHORTLY BEFORE MARCH 17 RESPONDENTS WOLFGANG, SPECIAL ATTORNEY MICHAEL J. POLLOCK, ASKED PLAINTIFF TO GO TO DETROIT MICHIGAN AND GIVE CERTAIN IMPORTANT INFORMATION TO A DEFENDANTS DELEGATE, IN THE UNITED STATES DEPARTMENT OF LABOR. SAID DELEGATE BEING INVOLVED IN .. INVESTIGATION OF ORGANIZED CRIME RACKETEERING.

41.. PLAINTIFF WENT TO DETROIT MICHIGAN ON MARCH 16, 1972 (OR MARCH 17, 1972) AND MET MICHAEL J. POLLOCK, SPECIAL ATTORNEY AND SEVERAL OTHER JUSTICE DEPARTMENT ATTORNEYS AND HOWARD W. SWAIN OF THE UNITED STATES DEPARTMENT OF LABOR, IN THE OFFICES OF THE DEPARTMENT OF JUSTICE. AFTER EXTENSIVE INTERROGATION, A MEETING WAS SET UP FOR THE FOLLOWING DAY FOR THE PLAINTIFF AND SWAIN, AT THE OFFICES OF THE UNITED STATES DEPARTMENT OF LABOR, 1906 WASHINGTON BOULEVARD BUILDING, 234 STATE STREET, DETROIT MICHIGAN (48226)

42.. PLAINTIFF SPENT TWO DAYS ISSUING HIS STATEMENT OF INVOLVEMENT INFORMATION TO DEFENDANTS DELEGATE, SWAIN. THIS STATEMENT WAS CAREFULLY TAKEN DOWN IN LONG HAND BY SWAIN AND WHEN COMPLETED WAS VERY CAREFULLY CHECKED AND READ BY BOTH PARTIES. SWAIN ADVISED PLAINTIFF THAT THE HAND WRITTEN STATEMENT WOULD BE TYPED OUT AND SENT TO HIM FOR HIS APPLICATION, AFTER WHICH SWAIN WOULD SEND A COPY TO PLAINTIFF. .. JUNE 21, 1972, PLAINTIFF WAS IN THE OFFICES OF ROBERT J. CAMPBELL, CHIEF STRIKE FORCE 18, WASHINGTON D.C., FOR A MEETING .. AND ...

PLAINTIFF THAT THE PLAINTIFF'S STATEMENT TO SUBAIN WAS THERE FOR PLAINTIFF TO SIGN. PLAINTIFF CAREFULLY READ THE TYPEWRITTEN VERSION AND BELIEVED IT WAS ESSENTIALLY ACCURATE. THEREPON PLAINTIFF SIGNED THE STATEMENT. FOLLOWING THIS, CAMPBELL AND WILLIAM GLASE, SPECIAL AGENT, INTERNAL REVENUE DEPARTMENT, WITNESSED AND SUBSCRIBED TO PLAINTIFF'S SIGNATURE.

43.. PLAINTIFF'S STATEMENT, REFERRED TO IN NOS. 41. AND 42, CONTAINED VITAL INFORMATION FOR DEFENDANT, IN BATTLING ORGANIZED CRIME, IN CERTAIN AREAS OF DETROIT MICHIGAN, AND IF THE INFORMATION THE PLAINTIFF DISCLOSED TO DEFENDANT'S DELASATE LEARNED FROM DEPARTMENT OF LABOR AND/OR THE JUSTICE DEPARTMENT IN DETROIT MICHIGAN, THE WELL BEING AND SAFETY OF PLHINTIFF WOULD BE GREATLY ENDANGERED.

44.. PLAINTIFF MADE NUMEROUS REQUESTS ON DEFENDANT'S DELEGATE'S FOR THE PROMISED COPY OF AFOREMENTIONED STATEMENT, BUT FOR REASONS NOT CLEAR TO PLAINTIFF AT THOSE TIMES, DEFENDANT'S DELAGATE REFUSED TO SEND THE PROMISED COPY TO PLAINTIFF, UNTIL SOMETIME IN MARCH 1973, ONE YEAR AFTER PLAINTIFF GAVE HIS STATEMENT.

45.. PLAINTIFF HAS ON HAND A DETROIT NEWSPAPER ARTICLE OF APRIL 29, 1973, BY (CORE) DENNY WELSH, OF THE NEW YORK TIMES NEWS SERVICE, WHICH HEADING STATES, QUOTE.

"F.B.I PROBE OF TEAMSTERS, MAFIA CONNECTION SLOWED".

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46. PLAINTIFF AVERS THAT THE INFORMATION GIVEN IN HIS STATEMENT, AFOREMENTIONED, TO DEFENDANT DELEGATO'S, WAS OF AN EXTREMELY SENSATIVE NATURE AND BY THE DELIBERATE MISHANDLING THIS INFORMATION BY DEFENDANTS DELAGRIE, PLAINTIFF WAS PLACED IN AN UNTENABLE AND QUESTIONABLE POSITION.

47. ON OR ABOUT JULY 20, 1972, PLAINTIFF RECEIVED A SUBPOENA TO APPEAR BEFORE GRAND JURY, ON JULY 18, 1972, AT UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK TO GIVE EVIDENCE IN REGARDS TO AN ALLEGED VIOLATION OF SECTION 371, TITLE 18 UNITED STATES CODE. SUBPOENA ISSUED BY ROBERT J CHARBELL, CHIEF, STRIKE FORCE 18, WASHINGTON D.C.
PLAINTIFF APPEARED AS REQUESTED AND SUPPLIED INFORMATION WHICH WAS MOST VITAL TO THE, RECENT LATER, CONVICTION OF PERSONS WHO WERE THE RETURN COMMON GAMBLERS, RACKETEERS AND MEMBERS OF ORGANIZED CRIME.

48. ON SEPTEMBER 7, 1972, PLAINTIFF RECEIVED A NOTICE OF ARRAIGNMENT (CR. 72-499) WITH A COPY OF A GRAND JURY INDICTMENT, WITH INSTRUCTIONS TO APPEAR FOR ARRAIGNMENT BEFORE A UNITED STATES MAGISTRATE, ON SEPTEMBER 14, 1972, AT THE UNITED STATES COURT HOUSE, PHILADELPHIA, PENNSYLVANIA.

49. THE CHARGES (IN 46) OF THREE COUNTS ON PLAINTIFF'S PERSONAL JOINT TAX SUBSCRIBED ON INCOME TAX RETURN FORM 1040, INTERNAL REVENUE SERVICE STATED, THAT FOR FISCAL YEARS ENDING 1966-1967-AND 1968 THE TOTAL INCOME STATED ON LINE (9) NINE FILED FOR $128,235.88 - WHEREAS PLAINTIFF "THEN AND THERE KNEW AND BELIEVED THAT HIS CORRECT TOTAL INCOME WAS $145,794.71.. OR - AN UNDERSTATEMENT OF $17,558.83, ON LINE (9) NINE.

50. PLAINTIFF CHARGES THAT THIS DUBIOUS INDICTMENT WAS THE BEGINNING OF THE ACTIONS TO.. QUOTE:

> "GET THE PLAINTIFF, WITHIN SIX MONTHS, WITH ADDITIONAL CRIMINAL PROSECUTION BY DEFENDANTS STRIKE FORCE," AS "PROMISED BY THE SPECIAL UNITED STATES ATTORNEY, ROBERT OLER, IN OPEN COURT ON MAY 21, 1971.

51.. PLAINTIFF APPEARED FOR ARRAIGNMENT ON SEPTEMBER 14, 1972, AT WHICH TIME HE NOTIFIED THE UNITED STATES MAGISTRATE THAT HE HAD NO FUNDS TO RETAIN AN ATTORNEY. THE ARRAIGNMENT WAS THEN CONTINUED TO SEPTEMBER 21, 1972, AND THE MAGISTRATE WAS TO APPOINT AN ATTORNEY TO REPRESENT PLAINTIFF.

52.. ON SEPTEMBER 16, 1972, PLAINTIFF RECEIVED A LETTER FROM (ONE) RICHARD H. ELLIOTT ESQUIRE, INDICATING THAT HE IS THE COURT APPOINTED ATTORNEY AND REQUESTING A MEETING IN HIS OFFICE, IN PHILADELPHIA, PENNSYLVANIA, ON SEPTEMBER 19, 1972, JUST TWO DAYS BEFORE ARRAIGNMENT,

53. ON SEPTEMBER 21, 1972, ARRAIGNMENT WAS HELD AND PLAINTIFF RECEIVED NOTICE THAT THE TRIAL (Cr. 72-177) HAS BEEN SET FOR DECEMBER 18, 1972, BEFORE JUDGE EDWARD R. BECKER.

54. ON OCTOBER 4, 1972. PLAINTIFF MAILED TO ATTORNEY ELLIOTT THIRTY SIX DOCUMENTS UPON WHICH ELLIOT COULD BUILD HIS DEFENSE, AND ASSURED ELLIOTT THERE WERE OTHER VOLUMINOUS DOCUMENTS AND RECORDS IN PLAINTIFFS POSSESION THAT WOULD CLEARLY PROVE THE INTERNAL REVENUE SERVICE ALLEGATIONS TO BE UNFOUNDED ON FACT. BUT WERE PART OF SCHEME "TO GET" PLAINTIFF AND PUT HIM OUT OF BUSINESS.

55. ATTORNEY ELLIOTT THEN ADVISED PLAINTIFF THAT HE DOES NOT WANT TO GO TO COURT, BUT, IF PLAINTIFF WERE TO PLEAD GUILTY ELLIOT PROPOSES TO HAVE PLAINTIFF RECEIVE PROBATION

56. PLAINTIFF ADVISED ATTORNEY ELLIOTT THAT HE WASNT INTERESTED IN HIS PROPOSAL (-55) AND WANTED TO CONTEST THE ALLEGATIONS.. ELLIOTT SAID.. "NO COURT TRIALS-THATS IT"

57. ATTORNEY ELLIOTT SENT PLAINTIFF A FORM TO SIGN WHICH WAIVES, IN OPEN COURT, PROSECUTION BY INDICTMENT AND CONSENTS THAT THE PROCEEDINGS MY BE BY "INFORMATION" INSTEAD OF BY INDICTMENT.

58. AT THIS SAME TIME PLAINTIFF RECEIVED FROM ATTORNEY ELLIOTT, COPIES OF A SIX COUNT "INFORMATION" WH ELLIOTT RECEIVED FROM ROBERT J. CURRAN, UNITED STATES ATTORNEY EASTERN DISTRICT OF PENNSYLVANIA, CHARGING VIOLATION OF SECTION 7206(1) INTERNAL REVENUE CODE, TITLE 26 UNITED STATES CODE, SECTION 7206(1)

59.. THESE CHARGES (IN 58) WERE AGAINST PLAINTIFF, AS PRINCIPAL STOCKHOLDER OF THREE CORPORATIONS, AND ACCUSED PLAINTIFF OF FILING INCORRECT GROSS RECEIPTS ON LINE ONE (1) ON UNITED STATES CORPORATION INCOME TAX RETURN FORM 1120, FOR THE YEARS ENDING 1967-1968 AND 1969

60.. THE INTERNAL REVENUE SERVICE CHARGED THAT THE COMBINED SUM TOTAL GROSS INCOME FILED ON UNITED STATES CORPORATION INCOME TAX RETURN 1120 - LINE (1) ONE WAS ($4,023,479.32) FOUR MILLION, TWENTY THREE THOUSAND, FOUR HUNDRED SEVENTY DOLLARS AND THIRTY TWO CENTS

61.. THE INTERNAL REVENUE SERVICE CHARGED THAT PLAINTIFF, QUOTE: "THEN AND THERE WELL KNEW AND BELIEVED THAT THE CORRECT GROSS RECEIPTS WERE ($4,048,062.83) FOUR MILLION, FORTY EIGHT THOUSAND, SIXTY TWO DOLLARS AND EIGHTY THREE CENTS.

62.. THEREFORE THE INTERNAL REVENUE SERVICE CHARGES CLAIM, THAT PLAINTIFF UNDERSTATED THESE COMBINED CORPORATE GROSS INCOMES, IN THE AMOUNT OF ($24,592.51) TWENTY FOUR THOUSAND, FIVE HUNDRED NINETY TWO DOLLARS AND FIFTY ONE CENTS, ON REPORTED GROSS COMBINED INCOMES OF ($4,023,479.32) FOUR MILLION, TWENTY THREE THOUSAND, FOUR HUNDRED SEVENTY DOLLARS AND THIRTY TWO CENTS.

63.. PLAINTIFF CHARGES THAT THE ABOVE ACTIONS (¶'S 60, 61 & 62) BY DEFENDANT WAS NOTHING MORE THAN ANOTHER MOVE BY DEFENDANT "TO GET" PLAINTIFF, DEFENDANT ERRONEOUSLY DETERMINING THAT PLAINTIFF WAS A RACKETEER AND A MEMBER OF ORGANIZED CRIME, ALL IN LINE WITH ASSISTANT ATTORNEY'S ROBERT OLSEN "PROMISE TO GET" PLAINTIFF, AS HE MADE IN OPEN COURT ON MAY 21, 1971

64. TO FURTHER BEAR OUT THAT DEFENDANTS DEFENDANTS WELL KNEW THAT THE INDICTMENTS AGAINST PLAINTIFF WERE VERY WEAK AND WOULD NOT HOLD UP IN A COURT OF LAW, DEFENDANTS ATTORNEY STOPPED PLAINTIFF'S ATTORNEY, ELLIOTT, AS HE AND PLAINTIFF WERE LEAVING THE UNITED STATES MAGISTRATES COURT ROOM AFTER THE ARRAIGNMENT AND IMMEDIATELY PROPOSED A DEAL TO PLAINTIFF'S ATTORNEY, ASKING FOR A GUILTY PLEA FOR A PROMISE OF PROBATION.

65. PLAINTIFF DID NOT WANT TO BE A PARTY OF ANY DEALS AND WALKED AWAY FROM BOTH ATTORNEYS. LATER, WHEN DEFENDANTS ATTORNEY, PLAINTIFF'S ATTORNEY ADVISED HIM THAT DEFENDANTS ATTORNEY WAS ANXIOUS TO MAKE A DEAL, AS HE WELL KNEW THAT DEFENDANT HAD A VERY WEAK CASE. PLAINTIFF ADVISED HIS ATTORNEY THERE AND THEN, THAT THERE WILL BE NO DEALS AS FAR AS PLAINTIFF WAS CONCERNED

66. AS TIME GOT CLOSER TO THE TRIAL, THE TREMENDOUS PRESSURES FROM ALL SIDES BECAME TOO MUCH FOR PLAINTIFF TO BEAR ANY LONGER, AS ALL THESE OUTSIDE PRESSURES WERE BEGINNING TO AFFECT PLAINTIFF'S THINKING PROCESSES AND EMOTIONAL AS WELL AS PHYSICAL WELL BEING. THE RESULT WAS A GUILTY PLEA AND PROBATION

67. PLAINTIFF AVERS THAT THE PRIME INTEREST OF HIS COURT APPOINTED ATTORNEY WAS "TO GET THIS THING OUT OF THE WAY"

68. ON FEBRUARY 13, 1973, IN A LANDMARK FEDERAL INDICTMENT, THE UNITED STATES OF AMERICA INDICTED (18 C 1962) MILTON FARNESS AND BARBARA FARNESS CHARGING THEM WITH A PATTERN OF RACKETEERING, AND FRAUD (AS DEFINED IN TITLE 18, UNITED STATES CODE, SECTIONS 1961(1)(B) AND (5),) AGAINST PLAINTIFF.

69. THIS INDICTMENT WAS THE RESULT OF STRIKE FORCE 18, WASHINGTON DC WORKING IN CONJUNCTION WITH PLAINTIFF SINCE NOVEMBER 1971.

70.. ROBERT J. CAMPBELL ESQUIRE, CHIEF, STRIKE FORCE TO, WASHINGTON D.C, ADVISED PLAINTIFF THAT QUOTE!

"THE GOVERNMENT WANTS TO CONVICT THE RACKETEERS WHO STOLE THE HOTEL AWAY FROM YOU AND HAVE IT RETURNED TO YOU"

71.. ON AUGUST 30, 1973, HAROLD F. McGUIRE JR. ESQ. ASSISTANT UNITED STATES ATTORNEY FOR SOUTHERN DISTRICT OF NEW YORK, PHONED PLAINTIFF ASKING HIM TO COME TO McGUIRE'S OFFICE ON SEPTEMBER 5, 1973, IN ORDER TO DISCUSS THE PENDING CASE VS. PARNES, WHICH WAS SET FOR SEPTEMBER 11, 1973.

72.. ON SEPTEMBER 1, 1973 PLAINTIFF WROTE ATTORNEY McGUIRE, CALLING UPON HIM TO SET UP SOME SORT OF PROTECTION FOR PLAINTIFF AND FAMILY AS PLAINTIFF HAS BEEN RECEIVING THREATS ON HIS LIFE

73.. PLAINTIFF HAD BEEN PREVIOUSLY ADVISING ROBERT J. CAMPBELL, CHIEF STRIKE FORCE TO, WASHINGTON D.C ABOUT THESE THREATS AND CAMPBELL COMPLETELY IGNORED PLAINTIFFS COMPLAINTS AND/OR LAUGHED THEM OFF.

74.. IN PLAINTIFF'S LETTER, OF SEPTEMBER 1, 1973, TO ATTORNEY McGUIRE, PLAINTIFF CALLED HIS ATTENTION TO FACTS IN 73

75.. DURING THE PREVIOUS YEAR PLAINTIFF HAD SPOKEN TO AND WRITTEN TO ASSISTANT UNITED STATES ATTORNEY MICHAEL J. POLLACK, ON NUMEROUS OCCASIONS, ASKING FOR A MEETING WITH POLLACK, CAMPBELL AND/OR ANY OTHER DEFENDANTS DELAGATES WHO WERE WORKING WITH PLAINTIFF. THE PURPOSE OF REQUESTED MEETING WAS TO OVERCOME THE COMPLETE INDIFFERENCE THE DEFENDANTS DELEGATES SHOWED TO THE ORIGINAL PROMISES, MADE TO PLAINTIFF BY POLLACK ON NOVEMBER 6, 1971.

76. FINALLY, AFTER A YEAR OF FRUSTRATIONS TO PLAINTIFF, ATTORNEY POLLACK ADMITTED TO PLAINTIFF THAT HE WAS ORDERED BY HIS SUPERIORS TO, QUOTE:

"STAY AWAY—DO NOT INTERFERE—
THIS IS CAMPBELLS CASE"

77. PLAINTIFF CHARGES THAT DEFENDANTS DELEGATES, PLACED PLAINTIFF AND HIS FAMILY IN DANGEROUS JEOPARDY, BY NOT HONORING PROMISE OF PROTECTION.

78. ON SEPTEMBER 5, 1973, PLAINTIFF WAS SERVED WITH A SUBPOENA, SIGNED BY HAROLD F. McGUIRE, ASSISTANT UNITED STATES ATTORNEY, DIRECTING PLAINTIFF TO APPEAR AT THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK, ON SEPTEMBER 10, 1973, "TO TESTIFY AND GIVE EVIDENCE IN A CERTAIN CAUSE NOW PENDING UNDETERMINED IN THE SAID UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, BETWEEN THE UNITED STATES OF AMERICA, PLAINTIFF, AND MILTON PARNESS AND BARBARA PARNESS, DEFENDANTS

79. ON SEPTEMBER 14, 1973, PLAINTIFF ENGAGED THE SERVICES OF AN ATTORNEY TO WRITE A LETTER TO DUDLEY B. BONSAL, THE PRESIDING JUDGE, ADVISING THE JUDGE THAT THE COURT SHOULD BE AWARE THAT GOBERMAN AND HIS FAMILY HAVE BEEN THREATENED IF HE TESTIFIES, AND THAT THIS INFORMATION WAS BROUGHT TO THE ATTENTION OF ASSISTANT UNITED STATES HAROLD J. McGUIRE JR. WHO APPARENTLY DISCOUNTED THE SERIOUSNESS OF THIS SITUATION.

80. ON WEDNESDAY OCTOBER 3, 1973, MILTON PARNESS AND BARBARA PARNESS (HIS WIFE) WERE FOUND GUILTY AND SENTENCING WAS SLATED FOR NOVEMBER 15, 1973

81. ON DECEMBER 7, 1973, MILTON PARNESS WAS SENTENCED TO TEN YEARS IN PRISON AND FINED ($55,000.00) FIFTY FIVE THOUSAND DOLLARS, BARBARA PARNESS RECEIVED A TWO YEAR TERM, WHICH WAS SUSPENDED. SHE WAS PLACED ON PROBATION FOR THREE YEARS AND FINED ($6,000.00) SIX THOUSAND DOLLARS.

82. ON JANUARY 31, 1974, AFTER MANY REQUESTS BY PLAINTIFF, ORALLY AND IN WRITING, DEFENDANTS DELEGATE, AN ASSISTANT UNITED STATES ATTORNEY, WROTE TO PLAINTIFF, REFUSING TO TURN OVER COPIES OF TAPES OR THE WRITTEN TRANSCRIPTS OF TAPES, WHICH WERE RECORDED IN THE PLAINTIFFS HOME ON MARCH 13, 1972. THIS REFUSAL IN SPITE OF PROMISE BY DEFENDANTS DELEGATES WHO RECORDED THESE TAPES, SPECIAL AGENTS INTERNAL REVENUE SERVICE, WILLIAM GLASE AND HOWARD EISSLER.

83. WHEREFORE, THE PLAINTIFF DEMANDS JUDGMENT, FOR THE PLAINTIFF, FOR $7,500,000.00 FOR DAMAGES RESULTING FROM THE INVASION OF PLAINTIFF'S PRIVACY BY DEFENDANT. SAID JUDGMENT TO BE AGAINST DEFENDANT.

ALLAN N. GOBERMAN
PLAINTIFF PRO SE
POST OFFICE BOX 1578
LANCASTER, PENNSYLVANIA.
17604

J. 552

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

UNITED STATES OF AMERICA

-v-

MILTON PARNESS and BARBARA PARNESS, 73 Cr. 750

Defendants.

- x

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United States Attorney for the
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Attorney for the United States of America
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MEMORANDUM

BONSAL, D. J.

Defendants Milton and Barbara Parness move pursuant to Fed.R.Cr.P. 33 for a new trial based on newly discovered evidence on the ground that "the testimony of the prosecution's witness-in-chief was false as to material matters" and "that at the time of

trial the United States Attorney knew or should have known of material evidence favorable to the defendants which was not disclosed or made available to the defendants."[1] Argument was had before the Court on August 27, 1975, limited to the issue of whether a hearing was necessary on defendants' motion.

Defendant Milton Farness was convicted on October 3, 1973, by a jury, of acquiring control of the St. Maarten Isle Hotel Corporation ("Casino-Hotel") in St. Maarten, Netherlands Antilles through a pattern of racketeering in violation of 18 U.S.C. §§ 1961, 1962(b) and 1963 (Count 1), of two counts of causing interstate transportation of stolen property, 18 U.S.C. §2314 (Counts 4 and 5), and one count of causing a person to travel in interstate commerce in furtherance of a scheme to defraud, 18 U.S.C. §2314 (Count 6). Milton Farness' wife, Barbara Farness, a co-defendant at this trial, was convicted on Counts 4, 5 and 6. Defendants each were sentenced on December 7, 1973. On June 27, 1974, the Second Circuit affirmed their convictions (503 F.2d 430 (2d Cir. 1974)), and on January 13, 1975 the Supreme Court denied certiorari (419 U.S. 1105 (1975)). Thereafter, Defendants made the instant motion for a new trial.

I.

In order to grant a new trial based on newly discovered evidence, a defendant must show

> "inter alia, (1) that the evidence was discovered after trial, (2) that it could not, with the exercise of due diligence, have been discovered sooner, (3) that it is so material that it would probably produce a different verdict." United States v. Slutsky, 514 F.2d 1222, 1225 (2d Cir. 1975) (citations omitted).

The burden of proof is a stringent one and motions for a new trial based on newly discovered evidence 'are not held in great favor.' Id.: United States v. Catalano, 491 F.2d 268, 274 (2d Cir.), cert. denied, 419 U.S. 825 (1974). See United States v. Franzese, 321 F.Supp. 993 (E.D.N.Y. 1970), aff'd. 438 F.2d 536 (2d Cir.), cert. denied, 402 U.S. 995 (1971).

Defendants initially allege that Allan Goberman (the Government's key witness at trial) in connection with the civil action filed by him against Defendants in the United States District Court for the District of New Jersey on February 22, 1974 (four months after trial), gave testimony in a deposition which differed from that given at Defendants' trial, and that this constituted newly discovered evidence.

A. Defendants first contend that in the deposition Goberman substantially modified the testimony he gave at trial as to the amount owed to him by the Casino-Hotel or Hilton Harness. At trial Goberman testified that he believed he was owed approximately $400,000 in gross marker "pick ups" as of February, 1971, and stated that he relied largely upon work sheets from the Casino-Hotel showing "win-loss totals and marker pick ups" during the period from October, 1970 through January, 1971. These work sheets were received in evidence as Government's Exhibits 167 through 177. Defendants' counsel cross-examined Goberman at length with respect to his estimates and used the exhibits in his summation. Defendants' present calculations and conclusions are based solely on the same exhibits and do not constitute newly discovered evidence.

B. Defendants contend that Goberman's testimony at trial about the money owed him by Milton Parness in unremitted marker pick ups was false in that Goberman did not state that Parness was entitled to deduct certain commissions from the gross marker pick ups that Parness was to collect. This contention does not entitle Defendants to a new trial because of newly discovered evidence. See United States v. Slutsky, 514 F.2d 1[illegible] (2d Cir. 1975). Defendants were the recipients of these commissions and Milton Parness demonstrated his knowledge of them when he testified at a hearing before this Court. In addition, Goberman referred to these commissions in his direct testimony at trial.

C. Defendants contend that the existence of checks constituting remittances from Milton Parness' corporation, Olympic Sports Club, Inc., to the Casino-Hotel during December, 1970 and January, 1971 which should have been credited to the amount owed to Goberman was not revealed to Defendants by the Government during or prior to trial. The trial record shows that these checks were reflected in the evidence at trial, specifically in Government's Exhibit 155, which Defendants' counsel used for cross-examination and in summation. Moreover, the checks were written on the account of Olympic Sports Club, Inc., the corporation controlled by Milton Parness, who knew or should have known of their existence at trial. See United States v. Slutsky, supra.

Accordingly, none of the foregoing items constitute newly discovered evidence.

Additional claims of newly discovered evidence have been raised by Defendants since they filed their motion, which evidence they assert was known to the Government but not disclosed to Defendants at trial. Defendants contend that the Government failed to disclose to them that it had promised Goberman that it would recover for him the Casino-Hotel and that the existence of this promise is supported by statements made by Goberman on February 24, 1975 during oral argument on his motion for summary judgment in the pro se action he filed against Defendants in February, 1974, four months after the trial, in the District Court of New Jersey. Specifically, Defendants rely on Goberman's statement to the Court in New Jersey:

> "The reason why your Honor, I brought my claim under Section 1964D, and I may be, as you explained it, wrong is the fact that the United States government was supposed to have sued for the recovery under that act and to have recovered the hotel and returned it to me, and I'm trying to put myself in their position." Transcript, Feb. 24, 1975, at 17-18.

The Government contends that this statement is ambiguous and, in any event, contends that no promise of this nature was made.

Defendants also contend that letters and other documents ("letters") written by Goberman between December, 1972 and January, 1974 to certain prosecutors who had investigated the case against Defendants[2/] constituted either 3500 or Brady material. Defendants state that they discovered these letters in a file in an action filed in mid-1973 (apparently at approximately the time of Defendants' trial) by Goberman against the United States, 73 Civ.

2669, in the District Court for the Eastern District of Pennsylvania, seeking recovery of $60,815 taken by the Internal Revenue Service from one Sam Norber, which money Goberman contends Norber owed him as marker receipts. Defendants first contend that these letters establish that the Government promised to obtain for Goberman the $60,815 taken from Norber. Defendants also rely on statements in the letters such as: a reference in a letter dated December 13, 1972 to the government's intention "to pursue [sic] the Fish-Weinberg matter ..." and to recover monies from those persons which were allegedly obtained by fraud; a letter dated August 23, 1973 addressed to "Dear Mike" and signed "Allan"; a statement in a letter dated January 11, 1973 that "I [Goberman] trust the following two persons are in good health (1) your charming wife (2) your beautiful baby ..."; and a statement in a letter dated January 22, 1973 "Mike, I've at all times done (anything) everything you've asked me to do ...." The Government concedes that these letters were in an "administrative" file in Washington, D.C. but contends that no promise was made to recover the $60,815 and that the letters themselves and Goberman's institution of the Pennsylvania lawsuit support this contention. The Government further contends that in any event the letters are neither 3500 nor Brady material. The Government contends also that if the letters were found to be 3500 or Brady material, the affidavits of Harold F. McGuire, Jr., the Assistant United States Attorney representing the Government at the trial, and John M. Dowd, the only other Government attorney who participated in the preparation of the trial, establish that

failure to turn over these letters was inadvertent and that nothing in them warrants granting a new trial.

The Court notes that Defendants' contentions about Government promises to Goberman to recover his property may arise from the unusual provisions contained in the anti-racketeering statute (18 U.S.C. §1961 et seq.), which provide in section 1963(a) that whoever is convicted thereunder "shall forfeit to the United States" any property acquired in violation of the statutes, and in section 1963(c) that the Attorney General is authorized to seize such property and to dispose of it "as soon as commercially feasible, making due provision for the rights of innocent persons."

Of course, these provisions were known to Defendants' counsel at the time of trial and indeed were discussed informally with them by the Court on the question of their applicability to property like the Casino-Hotel, which is located on St. Maarten, Netherlands Antilles, outside the United States and hence outside of its jurisdiction.

In any event, the statute provided adequate basis for cross-examination of Goberman as to whether he expected to get the Casino-Hotel back as an "innocent person" and for argument before the jury that he was testifying for that purpose.

Defendants' contention that there is newly discovered evidence demonstrating that the Government promised Goberman that it would recover his Casino-Hotel (or remit the $60,815 taken from Norber) is without merit and does not entitle them to a new trial. A full reading of Goberman's statements at the oral argument on

February 24, 1975 before the District Court in New Jersey reveals only that the statements are ambiguous and that Goberman did not understand the legal status of the Casino-Hotel (which appears to have been forfeited to the government of the Netherlands Antilles on Goberman's failure to pay that government over 1-million). It is also noted that nothing in the letters in question suggests the existence of a promise to recover the Casino-Hotel, which promise each of the Government attorneys denies. See Williams v. United States, 503 F.2d 995 (2d Cir. 1974).

Insofar as Defendants seek a new trial on the basis of the letters found in the files of Goberman's Pennsylvania lawsuit, the Court finds that even assuming (but not so holding) that the letters were 3500 or Brady material, there is no basis for granting a new trial.

The Court finds that the Government's nondisclosure of these letters was inadvertent. The letters written by Goberman were each written to Department of Justice attorneys who were not involved in the trial or in its preparation. The one letter written to McGuire, the Assistant United States Attorney who represented the Government at the trial, was sent by J. Joseph Flynn, Goberman's attorney, on July 31, 1973, and merely referred to Goberman's "claim against the Internal Revenue Service for $60,000.00, which Mr. Goberman feels is owed to the Casino ..." and does not suggest any promise by the Government to recover the Casino-Hotel for him. Moreover, the affidavits submitted by McGuire and Dowd establish that each was unaware of the existence

of those letters which were in an 'administrative' file in Washington, D.C., over which neither had control or responsibility.

Since Defendants have failed to show that "there is a significant chance that [those letters], developed by skilled counsel as [they] would have been, could have induced a reasonable doubt in the minds of enough jurors to avoid a conviction," see United States v. Kosner, 516 F.2d 269, 271 (2d Cir. 1975); United States v. Fahn, 472 F.2d 272, 287 (2d Cir.), cert. denied, 411 U.S. 985 (1973), Defendants are not entitled to a new trial on the basis of the letters.[3]

Accordingly, Defendants' motion for a new trial is denied.

It is so ordered.

Dated: New York, N.Y.
September 29, 1975

DUDLEY B. BONSAL
U.S.D.J.

1/ Defendants also appear to move for a new trial "in the interest of justice" on the ground "that there exists evidence of material facts not heretofore presented ... which require vacation of the judgment." This motion is denied as untimely. See Fed.R.Cr.P. 33; United States v. Smith, 331 U.S. 469, 474-75 (1947).

2/ Defendants also rely upon one letter which was written by Goberman's attorney, H. Joseph Flynn, Esq., on July 31, 1973, to Harold F. McGuire, Jr., the Assistant United States Attorney who represented the Government at trial.

3/ The Court also concludes that the findings herein, based upon the parties' extensive briefs and supporting affidavits, satisfy the requirements of United States v. Hilton, Dkt. No. 74-2675 (2d Cir. Aug. 8, 1975) and United States v. Borelli, Dkt. No. 74-1827 (2d Cir. Aug. 29, 1975).

Endorsement

J 561

UNITED STATES OF AMERICA v. MILTON PARNESS 73 Cr. 750

In view of defendant's prior criminal record and it appearing that he initiated the crimes here involved at a time when he was still under parole supervision, defendant's motion for reduction of sentence is denied.

It is So Ordered.

Dated: New York, N. Y.
September 29, 1975

U. S. D. J.

J 562

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA

-v-

IND. # 73 Cr. 750

MILTON PARNESS

----------x

MILTON PARNESS, defendant above-named, hereby appeals to the United States Court of Appeals from an Order dated September 29, 1975 denying the above-named defendant reduction of sentence and from each and every part of said Order.

DATED: New York, New York
October 9, 1975

SAKE, BACON & DUAN, P.C.
39 East 68th Street
New York, New York 10021
(212) 472-1400

TO: PAUL J. CURRAN
United States Attorney
Southern District of New York

CLERK
United States District Court
Southern District of New York

MILTON PARNESS
[illegible] Federal Circle
[illegible], New Jersey

J 563

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA, :

- against - :

MILTON PARNESS and BARBARA PARNESS, :

Defendants. :

----------X

73 Cr. 750 (DBB)

NOTICE OF APPEAL

NOTICE is hereby given that MILTON PARNESS, defendant above named, hereby appeals to the United States Court of Appeals for the Second Circuit from the order of the Honorable Dudley B. Bonsal, United States District Judge, entered in this proceeding on the 29th day of September, 1975, and from each and every part thereof.

Dated: October 9, 1975
New York, New York

SAXE, BACON & BOLAN, P.C.
Attorneys for Defendant
Milton Parness
39 East 68th Street
New York, New York 10021
(212) 472-1400

By _____
MICHAEL ROSEN

TO: PAUL CURRAN, ESQ.
United States Attorney
Southern District of New York
1 St. Andrew's Plaza
New York, New York 10007

CLERK
U.S. District Court
U.S. Courthouse
Foley Square
New York, New York 10007

Milton Parness
39 East [illegible]
[illegible], New York

J 564

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA

Ind. # 73 Cr. 750

-v-

BARBARA PARNESS

----------x

BARBARA PARNESS, defendant above-named, hereby appeals to the United States Court of Appeals for the Second Circuit from an Order denying said defendant a new trial entered on September 29, 1975.

DATED: New York, New York
October 9, 1975

GASTHALTER & POLLOK
233 Broadway
New York, New York

TO: PAUL J. CURRAN
UNITED STATES ATTORNEY
Southern District of New York

CLERK
United States District Court
Southern District of New York

BARBARA PARNESS
24 East Eggwell Circle
West Orange, New Jersey

J 565

Letters written by Allen Goberman to various members of the prosecution, the originals of which are contained as exhibits to the affidavit of John Dowd, dated April 25, 1975 and also annexed to the letter of Michael Rosen, Esq. dated March 25, 1975

J 566

LETTER TO MICHAEL POLLACK, ESQ. WITH COPY TO R.J. CAMPBELL

Dec. 13, 1972

Michael Pollack, Esq.
United States Courthouse
Room 327
225 Cadman Plaz a East
Brooklyn N.Y. 11201

Dear Mike:

Several months ago I was in the office of R. J. Campbell Esq. Wash. D.C. At that time I was asked to (sign) affix my signature to the "papers" sent to R.J. by Hal Swain, Detroit. I believe I was told that I was to have a copy of same.

To this date I've not received a copy - will you please see that a copy is forwarded to me?

Also, if you don't intend to persue the Fish-Weinberg matter - please advise me & return the files I left with you relative to F & W. -- I must make an effort to recover the money these (F & W) defrauded me.

Mike - please answer me promptly.

Best wishes.

Allan

Copy to R. J. Campbell

DIARY PAGE

Its been 10 months since I gave Hal Swain my statement.

It's been 7 months since I signed my statement - (Swain mailed it to R.J.) in R.J.'s office & R.J. witnesses it - and I was promised the copy I asked for.

There's something rong -- there's a reason why Swain won't give me my copy -- maybe its "too hot" for him-

I don't really know - I have the feeling that theres something rong in Denmark (Detroit) (see [illegible]).

SUBJECT #2

Mike keeps "insisting" he doesn't want to go ahead 'till R.J. is thru with me -- in the meanwhile these crooks are getting away with it -- Is Mike really being truthful?

Copy of my notations from my diary

J 568

LETTER TO MICHAEL POLLACK, ESQ. WITH COPY TO HAL SWAIN

Jan. 11th 1973

Michael Pollack Esq.
United States Courthouse
Room 327
225 Cadman Plaza East
Brooklyn N.Y. 11201

Dear Mike:

It's now a month since I asked you for a copy of the "papers" I signed for our mutual friend Hal Swain.

Mike, I want an honest answer. Are they - yes-or-no - (going) being sent to me-?

SUBJECT #2-

Before you go "Gung Ho" for Fish as a govn't witness - I suggest you discuss this step at full length, further with me. I think I have some more "facts" on him.

I trust the following two prsons are in good health (1) your charming wife (2) your beautiful child. I'll even wish the same to you --

Allan (For Christ's sake
(contact me - will ya

Copy to
Hal Swain

DIARY PAGE

This whole thing has got me down. Swain wont send me my copy.

Mike is sitting on his hands.

R. J. still treats me, and talks down to me, like some crummy criminal.

I dam near had a heart attack - thru the pressures.

I must be dead as far as the hotel is concerned

I hope the "strike force" is happy the way they fucked up my & my families life!

Copy of notations from my diary

J 570

NOTATION ON LETTER OF JANUARY 8, 1973 FROM P. HOUTMAN TO ALLAN N. GOBERMAN (Received by Justice Dept. 1/19/73)

R. J.

Thank's for the prospective copy -- I sent a copy to these atty's today.

Allan

Advocaat en procureur
Mr. P. G. H. VAN DE VOORT
Mr. D. E. C. [illegible]
Mr. C. J. VAN WAGENINGEN

Vestiging
(Caribbean Mercantile Bank Building), Oranjestad, Tel. 1295-3371, P.O. Box 326, Cables: vandevoort
Nederland, Westzeedijk 98, Eendrachtsweg 51 (Holst Trenité, Hoogenraad en van Velzen)

St. Maarten, N.A.
P.O. Box 159
Tel. 21 [illegible]

RECEIVED
JAN 10 [illegible]
DEPT. OF JUSTICE

ONLY COPY AVAILABLE

R.J.
THIS IS THE
PROSPECTIVE COPY
I SENT A COPY TO THESE
ATTYS TODAY

Mr. Allen N. Goberman.
P.O. Box 3570,
104 Village Green Lane,
LANCASTER, Pa. 17604
U.S.A.

JAN 22 1973
Criminal Division

Dear Mr. Goberman,

Your letter of December 29th 1972 was received here on January 4, 1973.

In the meantime we sued St. Maarten Isle Hotel re: Note and the case was handled during the December Court-session; the case was delayed till the next Court-session in the second half of January. It might be possible that our opponents will obtain another postponement of the case till the February Session.

We did not proceed on the $ 20.000,- case and the casino agreement action since we should like to discuss some details with you, we hope to do so during you visit to St. Maarten.

I am not sure when Mr. van de Voort will be visiting St. Maarten but we will give you notice prior to his visit by cable.

My best wishes for 1973.

46-63-193

36 JAN 27 1973

CRIMINAL DIV.
Fraud Sec.

CIVIL DIV.
Fraud Sec.

J 572

LETTER TO MICHAEL POLLACK, ESQ.

Mon. 1-22-73

Dear Mike:

I tried to reach you by phone this A.M. - but couldn't get you - I trust that your wife is on the way to a speedy & full recovery, from her ilness.

Mike I want to report to you as to what I attempted to do today & the results of the same.

(A) I phoned Wm. Glase (in R.J.'s office Washington, and was told by sec'y that he's not there but could be reached in Hs'bg - I then phoned Hs'bg & the sec'y stated that (vaguely) he's not there - doesn't know where he is - but - perhaps can have him call me - told her to forget it

(B) I phoned Hal Swain in Dtrt - Secy told me he's no longer there - what do I want - I told her what I wanted - give me your address & I have Mr. Swain rite you - says' she.

Mike, I've at all times, done (anything) everything you've asked me to do - what makes it so difficult for (you) or (yours) to take care of a simple request? - Shall I forget the whole thing & mark it up to being made a "patsy" again? - Ive been thinking about Atty Kazlow's remarks to you about atty=client relationship.

I'm not interested in that bullship from him. You (& I) know he's entitled to all that crap. - However - I'm going to try to get the following <u>facts</u> to sink into your thinking. -

Fish - a broker - introduced me to

Mel Weinberg) who stated that Weinberg works
Eve Knight) for Onassis & Eve K. stated
she is Onassis represenitive -

They introduced me to Gene Kazlow atty - who told me Eve Knight speaks for Onassis & that he (Kazlow) speaks for & represents Eve Knight. - The ("contract") letter of (intent) commitment is signed by Kazlow - for - Even Knight (for Onassis etc.).

NOW!

I gave Fish (around) ($10,000.00, in good faith money, in addition to paying his (air) travel & hotel expenses - in order to get me the (money) (mortgage) he promised me he could get -

I gave Weinberg airline tickets - paid for hotel accomodations and sums of cash in the amoung (around) $45,000.00. - which included Kaxlows air & hotel to St. Maarten - whereupon Kazlow made up & signed the "papers" for Eve Knight -

Please, Mike, don't let Kazlow con you (as he did me) - He was part of their "scheme" and most certainly must have gotten his share of the $45,000.00.

I gave Weinberg (at his request) air tickets for (he said) necessary people to go from London to Greece -- to London - to New York - to Seattle - thence to Hong Kong - to get the money. He then (I found out later) cashed in about 10 to $12,000 worth of these tickets - Mike I tell you Kazlow was "in" with the others. -

Mike it's becoming increasingly harder for me to cope with all these situations much longer. The "endless waiting" is beginning to "get to me" -- the monstrous injustice of the whole situation is becoming unbearable.

J 574

Last nite (Sunday) I became very ill & felt I was going to get one of those "fribulations" (heart attacks) - I guess the good Lord pulled me thru that one= Mike I've got to have some answers - very soon - otherwise I feel that <u>everything</u> is lost & there's no more <u>hope</u> - I've done everything R. J. has asked of me= <u>yet no answers</u> - same applies to Hal Swain - Bill Glase & you -

Mike, where do I go from here? I must have some answers.

Allan

NOTATION ON LETTER OF JANUARY 22, 1973 FROM GREGORY M. HARVEY TO JUDGE BODY

R. J. = Have you any suggestions? = If I go to this "pre-trial" thing" = they'll (atty's) make mince meat of me=

Allan

J 576

ONLY COPY AVAILABLE

January 22, 1973

Honorable Ralph C. Body
1652 U. S. Court House
9th and Chestnut Streets
Philadelphia, Pennsylvania

RE: Hoffman v. Goberman,
Civil Action No. 72-1877

Dear Judge Body:

At your Honor's request, I have been able to reach Howard Rubin, Esquire, attorney of record for the defendant in the above matter, by telephone. Mr. Rubin is employed by the Internal Revenue Service and is no longer engaged in the practice of law. With Mr. Rubin's consent, I then communicated directly with his client, Allan H. Goberman. Mr. Goberman informed me that he will probably represent himself in further proceedings in the above-captioned matter. Accordingly, notice of a pre-trial conference should be sent directly to Mr. Allan H. Goberman, P. O. Box 1578, Lancaster, Pa. 17604.

Mr. Rubin's office telephone at the Internal Revenue Service, in the event that your Honor would desire to communicate with him, is (202)964-4555.

Respectfully yours,

Gregory M. Harvey

/cdg

cc: Mr. Allan H. Goberman

IF YOU HAVE ANY SUGGESTIONS AT ALL
AS TO "PROCEDURAL" THING WE SHOULD
DO PLEASE LET ME KNOW.

J 577

LETTER OF 1/24/73 TO HONORABLE RALPH C. BODY

ALLAN N. GOBERMAN
104 Village Green Lane P.O. Box 1578
Lancaster, Pa. 17604

January 24th 1973

Honorable Ralph C. Body
3062 United States Court House
9th and Chestnut Streets
Philadelphia, Pennsylvania 19107

Re: Hoffman v. Goberman
Civil Action No. 68-1277

Dear Judge Body:

I trust you will not consider me presumptious by writing directly to your honor.

As to (a copy attached) letter from Gregory M. Harvey Esq. to me, I wish to state the following.

(A) I've tried to secure an attorney to represent me.

(B) I've, so far, been unsucessfull because I simply don't have the funds to pay one.

(C) My total income is $320.00 a month, from Social Security, with which I am attempting to support my wife & myself.

(D) My former attorney has the files relative to this case.

(E) As to Mr. Harvey's mention, in his letter, that "Mr. Goberman informed me that he will probably represent himself in further proceedings in the above captioned matter" I wish to state that my formal education was, not quite, completing grammar school.

Because of Mr. Harvey's statement about my defending myself - I don't want your honor to think that I want to be "smart alecky" -

Your honor, where does one turn - where does one go - to secure justice - under these circumstances.

Respectfully yours,

s/Allan N. Goberman

J 579

LETTER TO R. J. CAMPBELL of 2/2/73

ALLAN N. GOBERMAN
104 Village Green Lane P.O. Box 1578
Lancaster, Pa. 17604

Fri - 2-2-73

Dear R. J.

I can't tell you how good it was to talk to you today - After you hung up - I felt like the "second ressurection"

I did some thoro checking -

Milton Rubin Esq. N. Miami Beach

Phones) Office 949-7431
A/C 305) Home - 947-0029

He, originally from Boston = was F.F.

good friend - confidante - & I think atty.

I met him once - at SXM -

You might want to check him out

The only Sam Morrison = would be a very very good friend of Phil Patz - He (was) is a retailer living & business in Steelton Pa. - near Harrisburg - plays stock market heavy - It's possible he is (A) retired & living in Miami area - or (B) just wintering in Miami - Re your question about Terrasa purchase it might be worth your time to check this out -

As ever Allan

J 580

NOTATION TO R. J. CAMPBELL 2/14/73 ATTACHED TO LETTER OF 8/16/67 FROM CLAUDE WATHEY TO ALLAN GOBERMAN

2-14 -73

R. J.

In "rootin" thru Claude Wathey's file I found this copy.

I tho't you would want to see it.

A

J 581

ONLY COPY AVAILABLE

GEZAGHEBBER VAN HET EILANDSGEBIED
DE BOVENWINDSE EILANDEN

EILANDSGEBIED BOVENWINDSE EILANDEN
NEDERLANDSE ANTILLEN

Mr. Allan P. Goberman.

104 Village Green Lane. Box 1570

LANGHORNE, PA. 19047

Philipsburg,
ST. MAARTEN N.A.

August 14, 1967

I am enclosing a copy of a letter received from Attorney Robert Feldman regarding the hotel plans of "Don Bird" made by Jorgin Leyden Associates. Please do all possible so as to avoid another law suit on this project.

Regarding your letter of August 6, 1967, I only know Mr. Frank Norman by his visits to here, he states he is connected with a casino operation in Las Vegas. I most probably will be visit [illegible] and I will [illegible]. I would suggest you continue talking to him as it appears he is well situated with the casino operation and may be helpful to us.

I hope you will be able to work out something with Thorsen on the construction and that, both our Governments, (Island and Federal) will appreciate this.

With best wishes,

Sincerely,

Charles Heyliger.

J 582

LETTER TO MICHAEL POLLACK, ESQ. 3/7/73

3-7-73

Dear Mike:

Just sitting here "pondering" - and this is how I "see it"

(A) Hal Swain (the Gov'nt) asked you to do something for him (& the gov'nt)

(B) You do it - by asking me to go to Detroit

(C) I knock myself out for you (the gov'nt) and Hal Swain (the govn't)

(D) NOW - I ask for my copy, which you (the gov'nt) and Hal Swain (the Gov'nt) know fully I should have & am entitled to same

(E) NOW - Hal Swain (the govn't) doesn't remember who Mike Pollack (the govn't) exsists

(F) NOW - Hal Swain (the govn't) never even "heard" of Allan N. Goberman

(G) In summary Mike, Hal Swain (the govn't) is making a schmuck out of Mike Pollack (the gov'nt) and of course myself.

GOD BLESS AMERICA.

Allan

J 583

LETTER TO R. J. CAMPBELL ESQ. 3/9/73 WITH COPY TO MICHAEL POLLACK

3-9-73

R. J. Campbell Esq.

Dear Mr. Campbell

I know how wrapped up & busy you must be in preperation of the very important "case" you have coming up in Florida, shortly.

However, when you return to your office, I would appreciate your setting up a meeting with yourself, Michael Pollack and myself.

It was nice seeing you for the few brief minutes yesterday.

Please contact me re above.

Allan N. Goberman

Copy to Mike Pollack

J 584

LETTER TO R. J. CAMPBELL, ESQ. 3/12/73

ALLAN N. GOBERMAN
104 Village Green Lane P.O. Box 1578
Lancaster, Pa. 17604

3-12-73

Robert J. Campbell, Esq.

Dear Mr. Campbell:

Attached is copy of letter to Greg Harvey, Esq. atty - for Mr. Patz - Mr. Genzler & Mr. Hoffman, - which is explanatory.

His (Patz's) visit was purely and simply a "scouting" exhibition - the questions he asked me - leads me to believe that he and Genzler & Hoffman - (are &) have some ties with Parness -

He (Patz) stated that Parness was in Baltimore trying to sell the "joint" - to some local (Balt.) "racketeers"

I give you the above for what its worth

Allan N. Goberman

J 585

LETTER TO R. J. CAMPBELL, ESQ. 3/13/73

3-13-73

Robert J. Campbell Esq.

Dear Mr. Campbell:

Last week, when I was at your office. we discussed briefly the matter of "Sam Norber - I.R.S. - (my) $60,000.00 matter

---

You told me that you would look into this and possibly (advise) suggest the steps I (must) should take in order to effect the recovery of this money.... And .. suggested I drop you a line as a reminder.

AS I'm anxious to get along on this matter I'd appreciate hearing from you.

Thank you.

Allan N. Goberman

(No cop)

J 586

DIARY PAGE

Well, here I go sticking my neck out again - more hopes - I guess those "hopes" keeps me going - No "hope - no nothin" - any way R. J., I believe, is trying to help - He knows & has the (my) records etc - to prove that the $60,000 - is mine -

I wonder if I'm going to be the patsy -again -

We'll see -

Copy of my notations
from my diary

LETTER TO R. J. CAMPBELL 3/38/73

Casino
St. Maarten Isle Hotel Corp. N.W.
P.O. Box 1578
Lancaster, Penn. 17604
U.S.A.

March 28th 1973

R. J. Campbell Esq.
Attorney In Charge
Strike Force 18
Room 2722
United States Department of Justice
Washington D.C. 20530

Re: Norber-Casino
$60,000.00

Dear R. J.

I appreciate you'r supplying me with a name - Mr. Sidney Resnick - I.R.S. - Detroit Mich.

I attempted to secure a local attorney to "press" for the recovery of this money, which as all parties concerned, now that it belongs to (me - Casino)

I finally succeded in having an attorney who did call Mr. Resnick - then reported to me that Mr. Resnick was very vaguein his answers & didn't know too much about the "affair" - you see - R. J. it's very difficult to hire an attorney & expect him to do a "good job" when all you can pay him with is some sort of a "promise" into the future

So, I decided to call Mr. Resnick and try to get to the bottom of this.

Mr. Resnick told me that "Norber" is claiming that:

A. The money was not his: True

B. He was carrying the money to deliver to a Los Vegas Casino: False

R. J. Its not realistic to think that a "delivery" - from Detroit-to-Los Vegas would be "routed" via New York.

It is more realistic to believe a "delivery" - from Detroit-to-New York would be made in the manner "Norber" did -

"Parness" told me "Norber" was bringing the money to N.Y. - I also spoke to "Norber" - who told me the same - That's why I was in N.Y. at that time as the $60,000 was to be used to help pay off the Holzer note" - in my mind - weather Parness would have "allowed" me to get my hands on this money - well - I guess we'll never know that, will we.

On March 13th 1972: Wm. Glase & Howard Eisler "interviewed" me and if you will check your tapes you will discover my mentioning the facts covering the incident.

On March 17th 1972 - in my "interview" with Mr. Hal Swain - same "incident" recorded on page 3 --

Now R. J. let's get down to the bare (true) facts:

(A) My records (which you have) is proof that "Norber & Selick" was in debt to the casino, for well over $150,000 -

(B) The $60,000.00" "Norber" had was being delivered to Casino (mine).

(C) I.R.S. or (whoever) is holding this money, has not right to it.

(D) Any claim by "Norber" at this time is nothing more than an effort to get this money back = altho "Norber" well knows who the money belonged to. (my casino)

Mr. Resnick (to whom I'm sending copy of this letter) would like to discuss this matter with you & I'd appreciate you two men getting together as soon as possible & get this matter finalized.

Very truly yours

Allan N. Goberman

J 590

LETTER TO SIDNEY RESNICK 3/28/73 WITH COPY OF LETTER OF 3/28/73 TO R. J. CAMPBELL

St. Maarten Isle Hotel Corp. N.V. (Casino March 28th
Internal Revenue Service
1300 Cadillac Towers
Detroit Mich.

Dear Mr. Resnick:

In line with out telephone conversation, of this A.M., I am herewith enclosing:

(A) Newspaper Article

(B) Copy of letter to Robert J. Campbell. Esq. Washington D.C.

I'd appreciate you & Mr. Campbell "getting together" on this (Norber 60,000 matter & bring it to a conclusion.

Very truly yours,

Allan N. Goberman

J 591

LETTER TO ROBERT J. CAMPBELL, ESQ. 4/18/73

4-18-73

Robert J. Campbell Esq.

R. J. -

This is a most interesting article -- A lot of unanswered "questions" are now falling into place. When I next see you remind me & we'll discuss the "questions" -

I red pencilled David West in the Article. If you will check your Detroit "Junket sheets" you will see his name, at bottom of players sheet, as a winner of, either $23,000 - or $28,000 - I can't remember which -

I asked Parness - "What does West do" - He answered "Numbers" -

You know R.J. it makes me shutter in disgust (& fright) when I think that these were the kind of people (animals) I actually "rubbed shoulders" with - in that G.D. Casino.

Allan

J 592

LETTER TO LAWRENCE LEFF, ESQ 4/27/73 WITH IRS FORM 843
WITH COPY TO R. J. CAMPBELL

ALLAN N. GOBERMAN
104 Village Green Lane P O. Box 157
Lancaster, Pa. 17604

4-27-73

To Lawrence Leff Esq.
Department of Justice
Organized Crime & Racketeering Section
Room 1064, Federal Building
Detroit, Michigan 48226

Dear Mr. Leff:

Enclosed please find (I.R.S.) Form #843 with explanatory attachment.

As I didn't receive instructions re direction of mailing, will you please be good enough to give papers to proper person(s).

Thank you for your (past) co-operation as well,

I remain.

Yours truly

Allan N. Goberman

Copy to R.J.

Form 843
(Rev. Jun. 1973)
Department of the Treasury
Internal Revenue Service

Claim

J 593

The Internal Revenue Service will indicate in the block below the kind of claim filed, and fill in, where required.

- ☐ Refund of Taxes Illegally, Erroneously, or Excessively Collected.
- ☐ Refund of Amount Paid for Stamps Unused, or Used in Error or Excess.
- ☐ Abatement of Tax Assessed (not applicable to income, estate or gift taxes).

Name of claimant

Name of taxpayer or purchaser of stamps

Number and street

City or town, State, and ZIP code

Fill in applicable items—Use attachments if necessary

a. Your social security number | Wife's number, if joint return | b. Employer identification number (if any)

c. Internal Revenue Service office where return (if any) was filed

d. Name and address shown on return, if different from above

e. Period—if for tax reported on annual basis, prepare separate form for each taxable year
From ..... 19..... to ..... 19.....

f. Kind of tax

g. Amount of assessment
$

Dates of payment

h. Date stamps were purchased from Government

i. Amount to be refunded (if income tax, complete computation below)
$ 10,000.00

j. Amount to be abated (not applicable to income, estate, or gift taxes)
$

k. The claimant believes that this claim should be allowed for the following reasons:

SEE ATTACHED STATEMENT-

Computation of Income Tax Refund

	Income Tax
1 Tax withheld	
2 Estimated tax paid	
3 Tax paid with original return	
4 Any additional income tax paid	
5 Total tax paid (add lines 1–4)	
6 Less: Your computation of correct tax	
7 Amount of overpayment	
8 Amount previously refunded	
9 Net overpayment (enter in item i above)	

Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Signed Allan H. Schuman

Dated 4-7-73 ..... 19.....

P.O. Box 1578 Lancaster PA 17604

See instructions on reverse.

Form 843 (Rev. 6-73)

J 594

STATEMENT ATTACHED TO I.R.S. FORM 843

ALLAN N. GOBERMAN
104 Village Green Lane P.O. Box 1578
Lancaster, Pa. 17604

4-2-73

ATTACHED TO FORM #843-I.R.S. - Refer to "K"

My name is Allan N. Goberman and I reside at 104 Village Green Lane, Lancaster Pa. 17604

(Prior to) January 1974 - I was the owner of the St. Maarten Isle Hotel, located in St. Maarten Netherlands Antilles.

At the same time I was the "operator" of a gaming casino located within the hotel.

Samuel Norber, of Detroit Mich., as a junketeer operator, was responsible to collect and deliv r to me, or my designated agents, all gambling losses of his own -- his personal associates - and the people he brought to the casino on his junketts.

Sometime in January 1971 - Samuel Norber was bringing $60,000.00 from Detroit-to-New York - to be delivered to me as a partial collection of gaming debts due.

At that time the $60,000.00 was confiscated by a government agency and I was then informed to claim the money at that time.

I initiated several steps towards claiming my money .. but .. found that I was getting into areas that could be dangerous to my "well being."

My records covering the above facts are not in my possession but in the possesion of

Robert J. Campbell Esquire
Attorney-in-Charge
Strike Force 18
Room 2722
United States Department of Justice
Washington D.C. 20530

There are many more facts pertaining to my claim - but I don't think it prudent to document them in this letter -- Please advise me when I may expect the release of these funds to me.

Allan N. Goberman

J 596

LETTER TO LAWRENCE LEFF, ESQ. 5/21/73 WITH COPY TO R. J. CAMPBELL

ALLAN N. GOBERMAN
104 Village Green Lane P.O. Box 1578
Lancaster, Pa. 17604

5-21-73

Lawrence Leff Esquire
Department of Justice
Organized Crime & Racketeering Section
Room 1064, Federal Bldg.
Detroit, Michigan, 48226

Dear Mr. Leff:

Re: My (certified mail) letter of 4-27-73

Please tell me to whom you gave this letter & attached IRS Form.

I'm very anxious to have the matter resolved.

Thank you.

Allan N. Goberman

Copy to R.J.C.

J 597

LETTER TO MISS MARGE, SECRETARY TO R. J. CAMPBELL, 6/8/73

ALLAN N. GOBERMAN
104 Village Green Lane P.O. Box 1578
Lancaster, Pa. 17604

6-8-73

Miss Marge
Secretary to
R. J. Campbell Esq. and
John Dowd Esq.
U.S. Dept. of Justice Room 2722
Washington D.C. 20530

Dear Miss Marge: (I'm sorry I don't have your last name)

In Mr. Campbell's and Mr. Dowd's office, is a black leather brief case, which is mine.

Mr. Dowd, who is very busy, forgot to bring it to me in New York, recently.

Will you get permission from your "bosses" to wrap the briefcase in heavy paper -and- please mail it off to me by parcel post, to above address.

Thank you very much.

Allan N. Goberman

J 598

LETTER TO LAWRENCE LEFF ESQ. 6/20/73 WITH COPY TO R.J. CAMPBELL

ALLAN N. GOBERMAN
104 Village Green Lane P.O. Box 1578
Lancaster, Pa. 17604

June 20th 1973

To
Lawrence Leff Esq.
Department of Justice
Organized Crime & Racketeering Section
Room 1064, - Federal Building
Detroit, Michigan - 48226

Dear Mr. Leff.

Thank you for returning my call today - & for sending me forms & proper address to (me) mailing same.

I am attaching copies of

(A) My letter to you - 4-27-73

(B) Form #843

(C) My covering letter attached to Form #843

It's really (a shame) too bad that an entire month has apparently been lost.

Thanks again,

Allan N. Goberman

Copy to R. J.

& in his book

U.S. DEPARTMENT OF JUSTICE
Organized Crime & Racketeering Section
Criminal Division
1064 Federal Building
Detroit, Michigan 48226

30

J 599

1973

June 21, 1973

Mr. Goberman
P. O. Box 1578
Lancaster, Pa 15901 17604

Dear Mr. Goberman:

In accordance with your request, I am enclosing two (2) copies of Form 843, which are the appropriate forms for you to use in filing your claim against seized property.

You should direct the executed forms to the Director, Internal Revenue Service Center, Central Region, Cincinnati, Ohio 45298.

Very truly yours,

LAURENCE LEFF
Attorney in Charge
Detroit Strike Force

Enclosure

LL/cjs

COPY

J 600

LETTER TO DIRECTOR, I.R.S. CENTRAL REGION 6/25/73

ALLAN N. GOBERMAN
104 Village Green Lane P.O. Box 1578
Lancaster, Pa. 17604

June 25th 1973

To The Director
Internal Revenue Service Center
Central Region,
Cincinnati, Ohio - 45290

Dear Mr. Director:

The attached (copies) is self-explanatory.

As you see, a lot of time has been wasted.

I respectfully request that you return the $60,000.00 to me at a very earliest date.

Kindly acknowledge this correspondence.

Very truly yours,

Allan N. Goberman

The copies referred to are
in Book 3 dated 4-27-73

#14A-1

J 601

52

Director
Internal Revenue
Service Center
Central Region
P.O. Box 267, Covington, Ky. 41012

JUL 12 1973

Mr. Allan N. Goberman
104 Village Green Lane
P. O. Box 1578
Lancaster, Pennsylvania 17604

Dear Mr. Goberman:

Thank you for your letter dated June 25, 1973, transmitting a copy of Form 843, Claim, dated April 27, 1973.

We are transferring your letter and claim to the Chief, Special Procedures Staff, P. O. Box 1858, Detroit, Michigan 48231, because his office handles claims of this type.

If you have any questions concerning your claim, they will be glad to help you.

Sincerely yours,

Dean E. Hutchinson

Dean E. Hutchinson, Acting Director
Cincinnati Service Center

COPY

ATTACH TO #10

J 602

ONLY COPY AVAILABLE

Form No. AD-73A
(Rev. 6-10-71)

RECEIVED
JUL 23 1973
ORGANIZED CRIME AND
RACKETEERING SECTION

NOTICE

PLEASE
DO NOT REMOVE THIS SLIP FROM
THE ATTACHED CORRESPONDENCE
SINCE IT IS A PERMANENT PART OF
THE RECORD.

OFFICE RECORDS
OPERATIONS AND MANAGEMENT

JUL 23 1973

5-12-3525
DEPARTMENT OF JUSTICE
34 JUL 23 1973
RECORDED
CRIMINAL DIVISION
Organized Crime and Racketeering Section

J 603

LETTER TO WM. GLASE, ESQ. 7/23/73 WITH COPY TO MICHAEL POLLACK, ESQ.

ALLAN N. GOBERMAN
104 Village Green Lane P.O. Box 1578
Lancaster, Pa. 17604

7-23-73

Wm. Glase Esq.
c/o R. J. Campbell Esq.
U.S. Dept. of Justice
Room #2722
Washington - D.C. 20530

Dear Bill:

Re: 2 Air Tickets
to Los Vegas

Today over the phone, you asked me about the two tickets I received from Travel Tyme (Parness) from Phila. Pa - to Los Vegas (& return).

R.J. also asked me about the same alleged trip - and I xplained it to him - I did my best to xplain it to you over phone - -so- I tho't I'd rite you and clear this matter (I hope) up to your and R. J. (& whoever else is interested)

One day when I was in Mike Pollacks office in Brooklyn, the subject arose as to my taking a trip to St. Maarten, & possibly Curacao, in order to retreive as many "records" as possible for the (R.J.) Washington strike force.

I told Mike that I didn't have the funds to make the trip, and anyway, as this was mainly for the benefit of the strike force, they should bear the xpense.

J 604

Mike told me to sign a blank "voucher," which I did - and promised me that he would do the best he could to get at least $500.00 for these expenses - but - he cannot guarantee this fact.

Altho I didn't receive a guarantee from Mike, and knowing how important the trip was, I took the financial risk and began "looking around" for ways & means to raise the funds to make this trip - I certainly felt that, as this trip was for the benefit of the strike force, they would reimburse me - (however - such was not the case, they didn't reimburse)

I'm sorry I don't have the records when I made the trip to S.M.X.

As the crooked lawyers, on T.V. say, "To the best of my recollection, I cannot give you, or remember, the point-in-time" - However I'm sure you have the date(s) in your files.

To get to the "nitty gritty" - Parness, for some reason, was very adamant about my (not) going to S.M.X. - and suggeste I take a vacation - at that "point-in-time" - I litterly "jumped" at the opportunity and told him to send me two, round trip tickets - Phila - Los Vegas - Phila - which he (Travel Tyme) did -

I then had - one ticket cashed and am attaching copy of check stub showing cash refund. I then traded in the other ticket for one to SMX - I'm sorry I don't haVe (or I can't locate) my cancelled ticket to SMX & Curacao.

I trust this clears up the "two tickets to Los Vegas" episode - to your & R.J's satisfaction.

Incidently - this is the trip I told you wherein the $300.00 cash (from one ticket) far fron covered my xpenses -and- (for the first time I purposley* cashed a $500.00 check in Jake Kosloff's casino - so - that I could pay my hotel bill & get off the island - * issued a bad check

I still think the strike force should have, at least, shared in the xpenses for this trip.

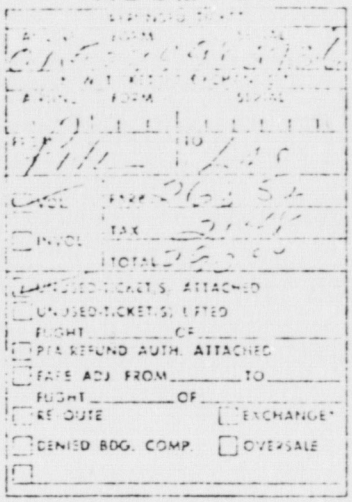
Allan N. Goberman

Copy to Mike Pollack

J 606

STAPLE ATTACHMENT BEHIND

H991760



DETACH BEFORE CASHING

ONLY COPY AVAILABLE

J 607

LETTER TO HAROLD F. McGUIRE, ESQ. 7/23/73

ALLAN N. GOBERMAN
104 Village Green Lane P.O. Box 1578
Lancaster, Pa. 17604

7-23-73

Harold F. McGuire, Jr. Esquire
Assistant United States Attorney
United States Attorney's office
Federal Court House - Foley Square
New York - New York - 10007

Dear Mr. McGuire:

The attached letter is self-explanatory and you may put this in the booklet, I mailed to you on 7-2-73 (position #10)

Since March - when this started in Washington - thence to Detroit - then to Covington - & now - the ball has been bounced passed" - back to Detroit.

You can draw you're own conclusions as who (or is it whom?) is gonna win this ball game!

Allan N. Goberman

J 608

34

LAW OFFICES
ZIMMERMAN & GOING
140 EAST KING STREET
LANCASTER, PA. 17604

BERNARD M. ZIMMERMAN
ROBERT M. GOING
D. PATRICK ZIMMERMAN
H. JOSEPH FLYNN

AREA CODE 717
TELEPHONE 392-4131

July 31, 73

ONLY COPY AVAILABLE

Harold F. Mc Guire, Jr., Esquire
Assistant U. S. Attorney
Federal Court House
Foley Square
New York, N. Y. 10007

Dear Mr. Mc Guire:

During our recent telephone conversation I indicated that I was representing Allan N. Goberman in his claim against the Internal Revenue Service for $60,000.00, which Mr. Goberman feels is owed to the Casino at the St. Maarten Isle Hotel which was licensed in his name. Mr. Goberman has brought to my attention that some of his discussions with you about certain criminal prosecutions which your strike force has brought were tape recorded. He feels that there is information in these tapes which may qualify the situation with respect to the $60,000.00.

I request that you furnish me with a transcript of those conversations. It is obviously important to Mr. Goberman that you do so, but I believe that there is also a corresponding benefit to the U. S. Government in furnishing such a transcript, in as much as Mr. Goberman's recollection of the events involved would be much more accurate if he were in a position to review the conversations he had with you.

Sincerely,

ZIMMERMAN & GOING

H. Joseph Flynn

H. Joseph Flynn

HJF:amp
CC: Allan N. Goberman

COPY

J 609

LETTER TO MICHAEL POLLACK, ESQ. 8/23/73

ALLAN N. GOBERMAN
103 Village Green Lane P.O. Box 1578
Lancaster, Pa. 17604

Friday August 23rd
1973

Michael Pollack Esquire,
Assistant United States Attorney
Room #327
United States Court House
Brooklyn N.Y. 11201

Dear Mike:

I'm attaching a newspaper article which is quite interesting. It appears that the "Justice Dept." makes a habit of screwing people (like me).

I rote you yesterday, asking, once again for "the meeting" - If you cannot arrange this meeting, shortly, I'll have no alternative than to ask the Senate Permanent Investigation Subcommittee for an appointment - or - Elliott Richardson.

Mike I'm getting very tired.

Allan

Please advise me how to contact the Senate committee.

A

J 610

MATERIAL ON SENTENCING

HFM,Jr.:dm

J 611

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

UNITED STATES OF AMERICA, :

- v - : NOTICE AND APPLICATION

MILTON PARNESS and BARBARA PARNESS, : 73 Cr. 750 (DBB)

Defendants. :

- x

TO: Hon. David N. Edelstein
Chief, United States District Judge

1. I, Paul J. Curran, United States Attorney for the Southern District of New York, hereby respectfully submit this notice that the defendant Milton Parness, who is scheduled to stand trial on this indictment before Hon. Dudley B. Bonsal, United States District Judge, is a "dangerous special offender" within the meaning of Title 18, United States Code, Section 3575, and is therefore eligible for sentencing (in the event of conviction) under subsection (b) of that section.

2. Pursuant to subsection (e) of Title 18, United States Code, Section 3575, the following is a statement of the reasons why I believe Milton Parness to be a dangerous special offender:

(a) Milton Parness has been previously convicted in courts of the United States of America for two offenses committed on occasions different from each other and from those alleged in the instant indictment. His first judgment of conviction, resulting from a conspiracy regarding the interstate

transportation of approximately one million dollars worth of stolen securities in 1961, was entered in the United States District Court [illegible] for the District of New Jersey on April 26, 1963. His second judgment of conviction, resulting from the interstate transportation of approximately one million dollars worth of stolen securities in July, 1962, was entered in the United States District Court for the Southern District of New York on December 16, 1965, after a 3 1/2 week trial before Hon. Inzer B. Wyatt, United States District Judge.

(b) Prior to the commission of the felonies alleged in the instant indictment, defendant Milton Parness was imprisoned from August 26, 1964 to May 7, 1969, and less than five years elapsed between the time of his release from imprisonment and the commission of the felonies alleged in the instant indictment which occurred beginning in December, 1970.

HFM,Jr.:dm

(c) Defendant Milton Parness committed the felonies alleged in the instant indictment as part of a pattern of conduct which was criminal under the laws of the United States, which constituted a substantial source of his income, and in which he manifested special skill and expertise in facilitating the initiating, organizing, management, supervision and concealment of criminal conduct.

3. It is conceded that the public filing of this notice may prejudice a fair consideration of the pending criminal matter; accordingly, it is respectfully requested that this Court issue an order, in the form annexed, sealing this notice, insulating the trial judge from knowledge thereof, and requiring service of this notice and the order of this Court upon the attorney for defendant Milton Parness.

s/ Paul J. Curran

PAUL J. CURRAN
United States Attorney

HFM,Jr.:dm J 614
73-0528

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

UNITED STATES OF AMERICA, :

- v - : FINDING AND ORDER

MILTON PARNESS and BARBARA PARNESS, : 73 Cr. 750 (DBB)

Defendants. :

- x

Upon the notice duly filed in camera by the United States Attorney pursuant to Title 18, United States Code, Section 3575 specifying the defendant MILTON PARNESS as a "dangerous special offender" within the meaning of that statute, and the Government having conceded that the filing of said notice may prejudice fair consideration of the pending criminal matter, this Court finds that the filing of said notice may prejudice fair consideration of the pending criminal matter, and accordingly it is hereby ORDERED:

(1) that said notice and this order be filed with the Clerk of this Court under seal;

(2) that the United States Attorney shall serve a copy of said notice and this order upon the attorney for defendant MILTON PARNESS within 24 hours of the entry of this order; and

(3) that said notice and this order shall not be subject to subpoena or public inspection during the pendency of this case, and shall not be delivered to Hon. Dudley B. Bonsal, presiding judge in this case, without further order of this Court.

Dated: New York, New York,
September 5, 1973

s/ David N. Edelstein
Chief United States District Judge

J 615

SOUTHERN DISTRICT OF NEW YORK ss.:

UNITED STATES OF AMERICA :

- v - : NOTICE

MILTON PARNESS and BARBARA PARNESS, : 73 Cr. 750 (DBB)

Defendants. :

S I R:

PLEASE TAKE NOTICE that, by order of Hon. Dudley B. Bonsal, United States District Judge, a hearing will be held in this Court on Friday, December 7, 1973 at 2:00 P.M. for the purpose of receiving evidence as to whether defendant Milton Parness should be sentenced as a "dangerous special offender" within the meaning of 18 U.S.C. Section 3575.

Dated: New York, New York,
November 23, 1973.

Yours, etc.,

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for the United States
of America

By: _____
HAROLD F. McGUIRE, JR.
Assistant United States Attorney

TO: ROY M. COHN, ESQ.
39 East 68th Street
New York, New York 10021

J 616

MP

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	
vs	:	73 Cr 157
MILTON PARNESS and BARBARA PARNESS,	:	73 Cr 750
Defendants.	:	

New York, N. Y.

December 7, 1973 - 2:00 p.m.

Before

HON. DUDLEY B. BONSAL,

District Judge.

APPEARANCES:

PAUL J. CURRAN, Esq.,
United States Attorney for the Southern District of New York
HAROLD F. McGUIRE, JR., Esq.,
Assistant United States Attorney
and
JOHN M. DOWD, Esq.,
Special Assistant United States Attorney

ROY M. COHN, Esq.,
Attorney for Defendants
and MICHAEL ROSEN, Esq., of Counsel

THE CLERK: For sentence, United States of America versus Milton Parness and Barbara Parness.

Is the Government ready?

MR. McGUIRE: Government is ready.

THE CLERK: Are the defendants ready?

MR. ROSEN: Defendants are ready.

THE COURT: Before we reach that, there are certain motions here, made by the defendants.

MR. ROSEN: May I be heard on the motions, Judge?

THE COURT: Gentlemen, I want to state on the record that I did receive your motion for a new trial, and I have received the Government's memorandum in opposition and your reply memorandum.

If you would like to add anything to those, you may proceed.

MR. ROSEN: May it please the Court, just three days ago -- I believe on December 4th -- the United States Supreme Court in Cupps vs. Naughten reaffirmed what I consider the most vital principle of our jurisprudence, and that is that the due process clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged.

Your Honor, although this case was in our opinion

THE COURT: Well, you have made the offer, and I am not going to require that, because the defendants have not produced an American attorney.

MR. ROSEN: Judge, if a hearing -- Certainly we can produce Mr. Milton Schwartz, who was with Mr. Glase, to testify exactly to the contrary, and if the Government is prepared to put on some proof, we would be similarly prepared. They were both there together, and we offer that to your Honor. We can establish that in a hearing.

MR. McGUIRE: Is Mr. Milton Schwartz in the courtroom?

MR. ROSEN: He is not.

MR. McGUIRE: We would be anxious to cross-examine him as to that point.

MR. ROSEN: Is your Honor going to grant us a hearing on that?

THE COURT: Well, I am going to proceed with the sentencing, and we will discuss it later. But I would like that on papers, particularly as to what he is going to say.

Now, in regard to the sentencing, I think I would like to consider Mrs. Parness first. Has the Government anything they would like to say with respect to Mrs. Parness?

MR. McGUIRE: Your Honor, we have had the opportunity in this case, unusual though it may be, to examine the

Probation Department's report with respect to both defendants, and we have our usual confidence in the integrity of work and the high standards of work of the Probation Department in this courthouse, and we haven't anything to add so far as Mrs. Parness is concerned, except to remind the Court that she did indicate the wilfulness of her conduct through her grand jury testimony and through certain efforts made during the time when Mr. Parness was on probation to influence his probation over in New Jersey to take action based on false representations.

THE COURT: Mr. Cohn?

MR. COHN: Your Honor, I have taken the liberty of addressing a letter to your Honor.

THE COURT: I received your letter, and I also received a letter from Mrs. Parness, I think last November. I receiver her letter, and I received a number of letters from relatives and friends of Mrs. Parness, and I have considered them all.

MR. COHN: Yes, your Honor, and I know how carefully your Honor considers these matters.

Mrs. Parness is not only not a first offender; she has never had even a traffic ticket in her life. She is a wife and mother, and if ever a case commended itself to the Court under these circumstances, I don't think any one

could more than this one could.

I would certainly be prepared to rest upon your Honor's consideration of the probation report and the factors here at issue.

THE COURT: Mrs. Parness, is there anything you would like to say to me, any facts you would like to bring to my attention before sentence is imposed upon you?

DEFENDANT BARBARA PARNESS: No, sir. Everything has already been said.

THE COURT: Mrs. Parness, it is true, as Mr. Cohn says, you have no prior record here, and yet I am very troubled by it, because the charges here are very serious indeed.

I think it is true that whatever you did was aiding and abetting Mr. Parness in this rather involved and serious criminal conduct. You have indicated in your letter, I think, that you weren't very clear what was going on.

DEFENDANT BARBARA PARNESS: No; I was not.

THE COURT: But there were some circumstances here that were rather odd. I think the trip to the Bank of West Orange, if that is the name of it, with a suitcase full of cash, containing checks, getting Goberman over -- I am troubled by it.

I am going to give you a sentence, Mrs. Parness,

but I am not going to require you to serve it if you conduct yourself as I believe you are going to conduct yourself: without further involvement.

The defendant Mrs. Parness was convicted on Counts 4, 5 and 6 of the indictment, and the defendant is committed to the custody of the Attorney General or his duly authorized representative for imprisonment for a period of two years on each of these counts, the sentences to run concurrently. The execution of the sentence is suspended, and the defendant will be placed on probation for a period of three years. In addition, the defendant will be fined the sum of $2,000 on each count, or a total of $6,000. This is not a committed fine.

Mrs. Parness, I want to advise you that you have an absolute right of appeal from the judgment of the Court. Do you understand that?

DEFENDANT BARBARA PARNESS: Yes.

THE COURT: And you are entitled to a lawyer on appeal. Of course, you have a lawyer right now, a very good one, but I want to advise you now that you are entitled to a lawyer, and if you can't afford a lawyer, a lawyer will be made available to you.

Do you understand that?

DEFENDANT BARBARA PARNESS: Thank you.

THE COURT: All right.

MR. McGUIRE: Your Honor, is the fine with respect to Mrs. Parness to be paid in any particular time?

THE COURT: I would be perfectly willing to have you work that out with Mr. Cohn, on the payment of the fine, and I will say this also, that if Mrs. Parness intends to appeal, I would be quite prepared to stay the sentence pending the conclusion of the appeal.

That is conditioned, of course, on prosecuting the appeal diligently. If it is not so prosecuted, the Government may come in and ask for the sentence --

MR. COHN: I was going to ask that in the case of both defendants, and I know that is conditioned upon our proceeding under the rules of the Court of Appeals.

THE COURT: All right.

Now, with respect to Mr. Parness, I think the Government has noticed a hearing.

MR. McGUIRE: That's correct, your Honor, and with the Court's permission, Mr. Dowd will handle that matter.

THE COURT: All right.

MR. DOWD: Your Honor, in addition to the matters that were brought to your attention through the notice of special offender, of which I believe two prior convictions were on the record, we have some matters we would like to bring

MP

to the attention of the Court under 18 USC 3577, the first of which, your Honor are what are known as the deCarlo tapes, which were electronic surveillance logs taken in early 1960's, which were released by the United States District Court for the District of New Jersey, where the late Judge Robert Shaw was sitting, and, your Honor, I have clipped those portions that refer to the defendant Milton Parness, the conversations that Mr. Parness had with Angelo "Gyp" deCarlo, a notorious organized crime figure in New Jersey, and I would like these two documents marked.

The first of these documents is the order of Judge Shaw, and the second are the logs of electronic surveillance.

MR. COHN: Your Honor, these have not been furnished to us.

THE COURT: They are going to be furnished right now.

MR. COHN: I would appreciate that.

MR. DOWD: Your Honor, they are a matter of public record, and Mr. Rosen and Mr. Cohn were advised in the District of New Jersey when these matters were raised.

THE COURT: All right. Mark them. This is a transcript, is it?

MR. DOWD: Yes, your Honor. I have clipped the relevant portions which refer to the defendant.

These would be Government's Exhibits 1 and 2 on this hearing.

(Government's Exhibits 1 and 2 marked for identification.)

THE COURT: I would like them made available to defense counsel so he can look at them.

MR. COHN: I would appreciate it very much.

THE COURT: Is there anything else you have?

MR. DOWD: Yes; I do, your Honor.

In March of 1973, the attorneys for the Government, including myself, were visited by a Mr. Herbert Zuckerman at his request with respect to an alleged complete defense to the tax case, which had significant relevance to the prosecution of this case, and I would like to call Special Agent Glase to the stand, who will relate the circumstances of that alleged complete defense and what he found, your Honor.

THE COURT: All right.

W I L L I A M F. G L A S E, called as a witness by the Government, being first duly sworn, testified as follows:

MR. DOWD: Mr. Clerk, may I have that marked as the next exhibit in order?

(Government's Exhibit 3 marked for identification.)

DIRECT EXAMINATION

BY MR. DOWD:

Q Mr. Glase, what is your occupation, sir?

A I am a special agent with the U. S. Treasury Intelligence Division of the Internal Revenue Service.

Q And were you charged with the investigation of the case before this Court and also the tax case which was indicted in the District of New Jersey against the defendants Milton and Barbara Parness?

A Yes; I was.

Q Now, following the indictments in those cases, in February of 1973, did you have occasion to have a meeting with a Mr. Herbert Zuckerman?

A I did.

Q And what is Mr. Zuckerman's occupation?

A Mr. Zuckerman is an attorney specializing in tax matters.

Q And whom did Mr. Zuckerman represent, sir?

A The Parnesses, Mr. and Mrs. Parness.

Q And where did you meet with Mr. Zuckerman?

A In the office of Strike Force 18, in the Department of Justice Building in Washington.

THE COURT: I didn't get the date.

MR. DOWD: March 19, 1973, your Honor.

Q And who was present during that meeting, sir?

A You were present, Attorney Zuckerman, myself and Attorney Robert J. Campbell joined us later, towards the end of the meeting.

Q And do you recall whether Mr. Zuckerman requested the meeting with yourself and myself and Mr. Campbell?

A Yes. He had requested the meeting.

Q And will you tell us what his purpose was in having this meeting?

A Well, he wanted to show -- he said he could show that the Government should not proceed with the tax case against the Parnesses, that he had a complete defense for it.

Q Essentially, the charge in the tax case, Mr. Glase, was an understatement of $61,000 in gross income on the tax return; is that correct?

A That's correct.

Q Is that $61,000 in any way related to the moneys involved in this prosecution?

A It's the same money, the same $61,000.

Q Is it fair to say that the $61,000 is made up of the $56,000 check that was brought to the bank on February 4, 1971 and an additional check of $5,000 brought to the bank on February 9, 1971?

A Yes, sir.

THE COURT: May I ask a question?

Those were the checks that I think the evidence indicated appear on the defendant's books, appeared originally as travel expenses?

MR. DOWD: That's correct, your Honor.

Q Now, Mr. Glase, would you tell the Court what Mr. Zuckerman represented to you and to Mr. Campbell and myself at that meeting with respect to the $61,000?

A Well, the way the $61,000 was recorded in Olympic's books he represented was due to an error on the part of Ida Cohen, and he also contended that there was an amount of $61,000 that Ida Cohen again had erroneously recorded -- rather, she should have recorded it as loans and didn't.

Q Did Mr. Zuckerman mention who had borrowed the money?

A Yes.

Q Who?

A Mr. Parness.

Q And from whom did he borrow the money?

A From three different individuals.

Q Could you name those individuals?

A Yes, sir. Mr. Zuckerman alleged that Mr. Parness had borrowed $30,000 from a Phil Casella, $26,000 from a Travel Time and $4,000 from an attorney, Jeffrey Vail.

Q Now, did he make any mention of Aaron Wein during that conversation?

A Yes; he did.

Q What did he say about Aaron Wein?

A That he was a very poor accountant.

Q An incompetent accountant?

A An incompetent accountant, yes.

Q Now, I hand you Government's Exhibit 3 for identification and ask you if you can identify those copies.

A Yes. These are deposit -- photocopies of Olympic Sports Club deposit tickets that Mr. Zuckerman gave us in Washington in March of 1973, and he alleged they represented the deposit of the loans to Olympic's checking account.

Q Mr. Glase, I will hand you --

MR. DOWD: Your Honor, we would offer Exhibit 3 for identification.

THE COURT: Show it to counsel.

Q Mr. Glase, I will ask you to look at Exhibit 155, which is already in evidence in this case, sir.

MR. COHN: I don't see the relevance, but there is no objection.

THE COURT: I will receive it. All right.

(Government's Exhibit 3 for identification was received in evidence.)

Q Mr. Glase, can you trace those amounts in the books of Olympic Sports Club, sir?

A Yes, I can.

Q Will you look at the cash receipts journal for February 1971?

A Yes, sir. The first of these deposit tickets is dated February 23, 1971 and shows a deposit of $30,000 in currency. I am able to find in February 1971 in Olympic's cash receipts books an entry of $30,000, and it is undated, but it is the only $30,000 entry in that month, and it is recorded as a marker collection.

Q All right, sir. Let's look at the next deposit here.

A The next deposit ticket is dated February 5, 1971, and it is for a check for $26,000, and in Olympic's cash receipts book for February 1971, opposite the date February 5th, I am able to find a deposit of $26,000, and this is recorded as a marker collection.

Q All right. Let's look at the next deposit ticket, please.

A The next deposit ticket is dated February 8, 1971, and it is for $4,000 in currency, and opposite the date of February 8th in the cash receipts book of Olympic for February there's an amount of $4,000 which is recorded as

front money.

Q Now, let's review for a moment.

The $30,000 was loaned by Philip Casella; is that correct?

A This is what we were told.

Q This was represented to you by Mr. Zuckerman?

A Yes, sir.

Q The $26,000 from Judith Amsterdam of Travel Time?

A Yes, sir.

Q And the $4,000 from Jeffrey Vail, an attorney in New York?

A Yes, sir.

Q All right. Now, was Mr. Zuckerman asked by myself to produce affidavits from these individuals?

A Yes; he was.

Q And he would provide affidavits from Mr. Casella, Mr. Vail and Mrs. Amsterdam and Ida Cohen; is that correct?

A Yes, sir.

Q Did you subsequently receive affidavits from Mr. Zuckerman?

A Yes; I did. I received --

Q I show you Exhibit 4 for identification. Can you tell us briefly what it is?

A This is an affidavit of Philip Casella.

Q And was that given to you by Mr. Zuckerman?

A Mr. Zuckerman gave me this affidavit; yes, sir.

Q All right, sir. Would you look at the next exhibit in order, which is Exhibit 5 for identification?

A This is an affidavit of Judith Amsterdam, and this was given to me by Mr. Casella -- by Mr. Zuckerman. I'm sorry.

Q After you received the affidavit of Mr. Casella, did you interview him, sir?

A Yes; I did.

MR. COHN: Are you offering these?

MR. DOWD: Yes.

MR. COHN: Your Honor, I don't object to these. There is one from Mr. Casella and one from Mrs. Amsterdam. You mentioned one from Mr. Vail. Is there one from him?

MR. DOWD: Yes; I will get to these.

MR. COHN: No objection.

(Government's Exhibits 4 and 5 for identification were received in evidence.

xxx

Q Mr. Glase, will you look at Paragraph 2. Rather than hand it up to the Court, I will read it.

"Some time in the latter part of January 1971 or early February 1971, I personally loaned $30,000 in currency to Milton Parness of Linden, New Jersey. At

the time of the loan I did not owe any money to Milton Parness nor to Olympic Sports Club nor to the St. Maarten Hotel Casino. There were no markers of mine outstanding.

"To date, this loan has not been repaid."

Now, did you speak with Mr. Casella with respect to this affidavit, sir?

A Yes; I did.

Q And would you tell us what Mr. Casella told you with respect to it?

MR. COHN: Excuse me, your Honor. That is objected to as rank hearsay.

THE COURT: I agree with you, but this is not on a trial. I will let you cross-examine him.

I take it the only purpose of this is to indicate to me what I should do about it.

MR. COHN: But I think they should indicate in a manner that is accurate. Now, if somebody is going to say Mr. Casella said some thing to be helpful to your Honor, I assume they would produce Mr. Casella.

THE COURT: Well, if not, I will consider the application.

Q What did Mr. Casella tell you with respect to the $30,000.

MP Glase - direct

A Well, Mr. Casella told me that it was not a loan, that it was an investment made in the hotel corporation, that the $30,000 was not given all by him, that $15,000 of it belonged to another gentleman, by the name of Magarelli, and that the money had been given on two different occasion to Edward Levrey for delivery to Mr. Parness, and this was some time before the end of 1970.

Q All right, sir.

MR. DOWD: Your Honor, at this time, with respec to this matter of Philip Casella, I would ask permission to submit to the Court for in camera inspection the grand jury testimony of Philip Casella in the District of New Jersey, and I have clipped the portion relevant to the matter being heard.

THE COURT: Will youmark it as an exhibit for identification? I will take a look at it.

(Government's Exhibit 6 marked for identification.)

xxx

Q Now, with respect to Mrs. Amsterdam, did you interview Mrs. Amsterdam with respect to this affidavit?

A Yes,sir; I did.

MR. DOWD: Will you mark this exhibit for identification, please?

(Government's Exhibit 8 marked for identification.)

xxx

THE COURT: On Government's Exhibit 6, there is

one clip?

MR. DOWD: Yes, your Honor. The testimony in question.

(Government's Exhibits 6 and 7 marked for identification.)

Q I show you Government's Exhibit 6 and ask you if you can identify that, Mr. Glase.

A It's a photocopy of a Travel Time check, Number 1564.

Q And would you look at Exhibit 7, sir, and tell me whether you can identify that.

A It's a photocopy of the cash disbursements of Travel Time for the month of February 1971.

Q Sir, will you look at Exhibit 8, please?

A This is a photocopy of Olympic Sports Club's checking account ledger sheet for the month of February 1971.

MR. DOWD: Your Honor, we offer Government's Exhibits 6, 7 and 8 for identification.

THE COURT: Have you seen these, Mr. Cohn?

MR. DOWD: I have just shown them to Mr. Cohn.

MR. COHN: No objection.

What are the grand jury exhibits? What number is that?

THE COURT: My notes say 6. I may be wrong.

MP Glase - direct

THE CLERK: Exhibit 5.

THE COURT: Is that part of this offer?

THE COURT: No. I wanted to mark those grand jury minutes. What were they marked? You have them.

MR. DOWD: I haven't got them, your Honor. They are on the bench.

This is 6, your Honor.

THE CLERK: These are 7, 8 and 9.

MR. COHEN: No objection to 7, 8 and 9, your Honor.

(Government's Exhibit 7 and 8 for identification were received in evidence.)

xxx

(Government's Exhibit 9 was received in evidence.)

MR. DOWD: Your Honor, Exhibit 5 is the affidavit of Judith Amsterdam, and just to read two short paragraphs to the Court:

"On February 5, 1971, I signed a check number 1564 to the order of Olympic Sports Club in the amount of $26,000. This check represented a loan to Olympic Sports Club. It did not represent commissions, refunds, payment on markers or any other similar item..

"It is difficult to trace the exact repayment of this loan, inasmuch as Milton Parness was in the habit of repying this and similar loans by personally

paying currency."

Q Now, Mr. Glase, were you able to trace this $26,000 figure in the books, this check of $26,000, in the cash disbursements book of Travel Time?

A Yes. Check Number 1564 for the date of February 5th shows a check issued to Olympic Sports Club for $26,000, and it is charged as a transfer. It is recorded as a transfer.

Q That is on the books of Travel Time?

A Yes, sir.

Q Now, would you look at the books of Olympic Sports Club, please? Do you see an entry in the cash receipts journal of February 5, 1971 for $26,000?

A Yes; I do.

Q And would you tell the Court what that is logged under?

A Yes. The $26,000 is recorded under "Markers" -- "Markers".

Q And would you look at the bank statement of Olympic Sports Club and tell me if you can find the $26,000 deposit?

A Opposite the date February 5th --

Q Excuse me, Mr. Glase. What day was February 5th? Do you know what day of the week?

A February 5th was a Friday.

Q Was a Friday?

A Yes.

Q All right, sir. Go ahead.

A There is an amount of $26,000 -- a $26,000 deposit on that date, according to the bank statement.

Q Now, prior to that deposit, sir, what was the state of the bank account?

A It was overdrawn.

Q In what amount, sir?

A $25,171.24.

Q Mr. Glase, are you able to determine what caused the overdraft of $25,000?

A Yes. There's an item, the last item charged before overdraft is $56,000.

Q Now, is that the same $56,000 which was at issue in the trial recently concluded here?

A Yes, sir.

Q Now, Mr. Glase, I show you Exhibits 9 and 10, sir, and could you tell me what Exhibit 9 represents, sir?

A Exhibit 9 is a photocopy of a Travel Time, Inc. deposit ticket dated February 8, 1971, and it shows a deposit of currency -- shows a deposit of currency in the amount of $26,000.

Q Into the account of Travel Time?

A Yes, sir.

Q Now, would you look at Exhibit 10. That is the cash receipts book of Travel Time; is that correct?

A Yes; for the month of February.

Q Do you see an entry showing that $26,000 in currency?

A Yes. Opposite the date February 8th, it's noted: Olympic Sports Club and the receipt of cash of $26,000, which is recorded as a transfer.

Q Now, would you look in the books of Olympic in the cash disbursements generally for February 1971 and tell me whether you can find a disbursement of $26,000 from Olympic to Travel Time, sir?

A No, sir.

Q Mr. Glase, would you look at the next three documents, the first one being Government Exhibit for identification Number 11, and 12 and 13 for identification, sir? Is the first one the affidavit of Jeffery Vail?

A Yes, sir.

Q Now, with respect to that affidavit, sir, is there any mention of $4,000?

A No, sir.

Q Speaking of the $4,000 that Mr. Zuckerman told you

had been borrowed by Mr. Parness from Mr. Vail?

A No, sir.

Q All right. Will you look at the next exhibit and tell us if you can identify it, sir?

A The next exhibit is a photocopy of Jeffrey Vail's check number 128 for $5,000, which he gave me when I interviewed him, and said it was -- it represented an investment by him in San Maarten Isle Hotel Corporation.

Q All right, sir. Will you look at the next exhibit and tell me whether you can identify that, sir.

A Yes. The next is a photocopy of an Olympic Sports Club deposit ticket dated February 3, 1971, and it shows the deposit of four checks, totaling $25,250, of which one is marked "Vail" opposite a $5,000 amount.

MR. DOWD: Your Honor, we offer these exhibits, and I hand them to Mr. Cohn.

MR. COHN: I suppose this is now 11, 12 and 13.

MR. DOWD: Yes, sir.

MR. COHN: No objection to any of these.

(Government's Exhibits 11, 12 and 13 for identification were received in evidence.)

xxx

MR. DOWD: Your Honor, if I could read briefly, for the Court's information, Paragraph 2 states:

"On February 3, 1971, I caused to be issued a

certified check for $5,000 payable to myself, which was endorsed in blank.

"3. I delivered this check to Milton Parness on or about February 3, 1971. Said check was depsoited to the account of Olympic Sports Club.

"4. Prior to the issuance of this check, I had visited San Maarten Isle Hotel in the Netherlands Antilles. I became interested in investing in said hotel, and the certified check was a deposit on my investment. Subsequently, the investment failed to materialize, and my $5,000 was repaid to me by Milton Parness.

"5. I never issued any markers evidencing any gambling or any other debt which I might have had to Milton Parness, St. Maarten Isle Hotel or Loympic Sports Club."

The next document is the $5,000 check, your Honor.

Q Now, Mr. Glase, would you look at the cash receipts journal of Lympic Sports Club for February 1971 and tell me whether you can trace the total amount of $25,250 into those books.

A Yes. Under cash receipts for February 1971, there is a deposited amount of $25,250 -- well, it's undated. It's the only amount like that in the book for $25,250.

Q All right, sir. Is that $25,250 broken down and logged under various categories?

A Yes; it is. $25,000 under markers and $250 under air transportation.

MR. DOWD: Your Honor, I have no further questions of Mr. Glase.

THE COURT: Would you like a recess?

MR. COHN: Whatever you say suits your Honor, I am ready.

CROSS-EXAMINATION

BY MR. COHN:

Q Now, you interviewed Mr. Casella: you told us about that. Did you interview Mr. Vail, too?

A Yes.

Q And did you interview Mrs. Amsterdam?

A Yes, sir.

Q Subsequent to your interviews,were those called before the grand jury?

A No, sir.

Q Well, Mr. Casella certainly was. Didn't Mr. Dowd offer his testimony to Judge Bonsal a few minutes ago?

A No. I interviewed Mr. Casella before he was called to the grand jury.

Q Yes. I said, subsequently.

A I'm sorry. Yes, sir.

Q Was Mr. Vail called before the grand jury?

A Yes, sir.

Q Did he testify?

A Yes, sir.

Q Did Mrs. Amsterdam testify on this subject?

A She was before the grand jury; yes, sir.

Q And is there any information you have that any of these people, these three people whom you interviewed and who testified before the grand jury were not available to come here today and testify?

A No, sir.

Q Were you asked by Mr. Dowd or Mr. McGuire to subpoena them or request them to appear?

A No, sir.

Q Now, if I might put it to you this way, sir, since you are the only one I can talk to, apparently, about this, is the point that you are trying to make that there were some entries on the Olympic books saying "Marker Checks" or something like that, referring to the items covered in the Vail affidavit, the Casella affidavit and the Amsterdam affidavit, and you are stating that the entries in the Olympic books with the word "Marker" or "Front Money" alongside those items contradict the contents of the affidavit? Is that what you are suggesting to the Court in the course of this testimony?

MR. McGUIRE: With all respect, your Honor, we have to object to that question.

MR. COHN: I am just trying to find out what he is trying to say, your Honor.

THE COURT: Well, gentlemen, I take it the purpose of this is to take evidence to convice me that in the sentence I should consider all this. I am going to be pretty liberal on it. I want to know what there is. It is not a trial. There is no jury here.

I think I will let you answer that question. Is that what came out?

A What we found, that amounts were entered in the books contrary to what we were told they represented.

THE COURT: Contrary to what you were told by these people?

THE WITNESS: Yes, sir.

Q And contrary to what you were told by Mr. Parness' own lawyer, Mr. Zuckerman; right? What you are saying is that Ida or whoever happened to make the notations in these books wrote down something different from what you were told by Mr. Parness' lawyer and told under oath by these three people; is that right?

A I am saying that what is in the books is different from what we were told.

THE COURT: That's the point.

Q Can you tell us here of any knowledge that Aunt Ida or whoever made those entries on those dates accurately reflected the purpose of those moneys?

THE COURT: I don't think we need go into that. I think I understand the agent's testimony that what these moneys were used for as far as the books were concerned was far different from what you were informed that they were used for?

THE WITNESS: Yes.

MR. COHN: Excuse me. With great respect -- this is confusing to me -- but I don't think he is saying that.

Q You don't say what the money was used for?

A The source --

Q You are saying what it came in for. That's what you are saying. The book says, entered by Aunt Ida, whoever it was at the time, "Front Money" or "Marker Collection", and the people who gave the money to Mr. Parness said that it was for loans and investments. That's about what you are telling us; isn't it?

A I am saying what's in the books is different from what we were told. It's recorded differently in the books.

Q All right. Now, did you call her to explain? Did you speak to Aunt Ida or whoever wrote these notations

next to these items about this?

A I think Aunt Ida -- Mrs. Cohen -- was questioned specifically on the $26,000 amount before the grand jury, and she was very emphatic that it's what it says in the book, but she was told what it was by Mr. Parness.

Q As to what?

A As to the $26,000.

Q Yes. Now, what about as to the $5,000 and as to the $30,000?

A I really don't know if she was questioned about those items. This I can't answer.

Q What you are really saying here is, because you have seen a notation in the book made by Mrs. Cohen or somebody else, saying something, that that suggests to you that those notations made by whoever was posting the books might be correct, and the affidavits you are submitting to Judge Bonsal today are wrong by the people who loaned the money? Is that what you are trying to tell us?

A I am saying what the books say is completely contradictory to what the affidavits say, and I am saying that the one item on which Mrs. Cohen was specifically questioned, she said the books are right, that that's what it was, was marker collection, that this is what she was told.

Q Did she tell you how she knew it was marker col-

lection?

THE COURT: I think he said she was told that.

A She was told that by Mr. Parness.

MR. COHN: Maybe I am a little lost here, your Honor. If we are trying to prove something, granting the great liberality --

THE COURT: As I understand it, it is the agent's testimony that the examination of the books revealed the items were recorded in a different way from what the principals involved told him the purpose of the money was. That is what he is saying. And, in addition to that, he says, with respect to one item, that he recalls that Ida Cohen said she was specifically told to put it in that way.

Q Is that about it?

A Yes.

MR. COHN: Now, in noticing this hearing today, Specification Number 2 talks about the obtaining of false affidavits from these three individuals. I assume that is the purpose of what we are doing here this afternoon.

Q Now, did these individuals tell you that these affidavits were false?

A Mr. Casella told me that what he says in his affidavit, in -- what is it -- Paragraph 3, wasn't the way it really was.

Q Well, he said it was the end of '70, not the beginning of '71. You are talking of a difference of a couple of weeks.

A It's a difference of a couple of months.

Q Did Mr. Casella tell you that the money he put in was for marker collections, as the books showed, rather than as a loan or an investment?

A He said it was money invested.

Q He confirmed the purpose of the loan as set forth in the affidavit, didn't he?

A I think the affidavit says he personally loaned Milton Parness $30,000.

Q What about Mr. Vail? As a matter of fact, the correct amount of Mr. Vail is $5,000, not $4,000?

A Well, that's right. We were told $4,000 originally, and it turned out to be $5,000.

Q Who told you $4,000 originally?

A Mr. Zuckerman.

Q And he was wrong; it turned out it was $5,000.

A And he said it was cash, and it was wrong.

Q It turned out to be a check?

A Yes.

Q And the check is entered in the books?

A No, sir. The check is not entered as an investment

or loan in the books. The check is entered in the books as --

Q Front money or marker collection or something or other, one way or another?

A That's the way the $5,000 is entered.

Q And you are saying that because a bookkeeper, be it Mrs. Cohen or somebody else, wrote down those words, that suggests to you that the affidavit Mr. Vail -- He is a lawyer, by the way; is that right?

A Yes, sir.

Q -- is false and that what a bookkeeper wrote down is correct; is that what you are suggesting to us?

A I am not saying -- I am saying what my determination is: is that the books are completely different than the affidavits. That's all I am saying.

THE COURT: Well, I understand that.

Q I think I understand that, too.

You are saying the books say $5,000 received, which we agree is Mr. Vail's $5,000 check was for front money or a marker collection, whereas Mr. Vail, an attorney, not called here today, but an attorney, who apparently testified under oath before the grand jury and submitted an affidavit to the Court, said it was not for front money or a marker collection; is that correct?

A That's what Mr. Vail's affidavit says; yes, sir.

Q Did he testify before the grand jury?

A He was before the grand jury.

Q Well, did he contradict the affidavit and say it was for marker collections or front money?

A No, sir.

Q Did he confirm the affidavit under oath?

A Yes, sir.

Q Did you make any reports or notes of these things, which you turned into a report of these interviews with these people?

A Yes, sir.

Q May I see them, please?

THE COURT: We will have a short recess.

(Recess.)

(In the robing room:)

THE COURT: Now, gentlemen, I want you to come in -- sit down, won't you? -- I have never had one of these things before, so I probably am quite ignorant of some things here, but I take it this is all in connection with the specification C, that the appellant has alleged that the offenses charged in the instant indictment were part of a pattern of criminal conduct under the laws of the United States, which constituted a substantial source of his income and in which he manifested special skill and expertise in

facilitating the initiating, organizing, management, supervision and concealment of criminal conduct.

Am I right in that?

MR. DOWD: That's right, your Honor.

THE COURT: Now, I would like a little offer of proof to help me out as to where we go from here.

I have heard testimony about these checks which seem closely related to the crimes in this indictment. Could you indicate what the purpose of this is so far as my sentencing is concerned?

MR. DOWD: Well, your Honor, as Mr. McGuire indicated earlier, we feel this is a false -- an attempt at a false defense was foisted on the Government prior to prosecuting this case and after the indictment, and the information given to us by Mr. Zuckerman was blatantly false, and he told us that he was doing it at the direction of Mr. Parness, and we felt that this was a matter of special expertise in trying to conceal or get out of the crime that's also consistent with the conversation he had with Mr. deCarlo on those logs, that the way to beat the case is to say he borrowed the money and to get these people to stand up and say he borrowed the money.

This shows a highly organized and professional criminal activity.

MR. McGUIRE: May I add one thing: Mr. Cohn seems to be getting excited about allegations of false affidavits and so forth. The purpose, really, of this line of testimony is to show that while on the surface an effort was made to adduce proof that the $45,000 which Olympic Sports Club put into the hopper in connection with the loan to Goberman was borrowed money, that contention didn't stand analysis. In fact, in connection with the Amsterdam and Vail transactions, all there was were short-term advances of money, which were quickly repaid, within a matter of a very short time.

THE COURT: Right.

MR. McGUIRE: And that as far as Casella is concerned, there wasn't a loan, either, and your Honor has read in the grand jury transcript what the true story was in respect to that transaction.

THE COURT: Yes. Well, I understand that.

MR. McGUIRE: The offer or proof means nothing more nor less than that. Casella's affidavit was clearly false. The other affidavits, while they may not have been actionably false, were certainly presented in a misleading context.

THE COURT: Well, how much more of this is there?

MR. DOWD: Your Honor, we are through. I have two questions for Mr. Glase, and then we are going to put on

Mr. Mozolak, who is a former probation officer, under whose supervision Mr. Parness was, and he shouldn't take but a very short period of time.

MR. COHN: If I could respond to all this, I might be a little more coherent if I understood it. I first thought this came in under the specification of false affidavits.

THE COURT: I don't think it matters. I think what they are saying is, it isn't really whether these are false affidavits. What they are trying to give to me is some indication that whatever it is that the defendant -- and this is the only thing that I am interested in at the moment -- was engaged in, he was engaged in other criminal activity at around this time, some of which related to the $56,000 which was involved in the crime.

MR. COHN: Your Honor, I don't think the Government would support that at all.

THE COURT: I take it they want me to know what these facts are, just to be considered in connection with the sentence.

MR. McGUIRE: Exactly.

MR. COHN: Your Honor, if it is to have some meaning, let's see what we are talking about here.

THE COURT: I will let you tell me when the time

comes that they don't have any meaning. I am perfectly prepared for that. But it isn't like a trial. They don't have to prove all this beyond a reasonable doubt.

I take it that the only purpose of this, in addition to the prior convictions, is to indicate to me that from where the Government sits these transactions as to which there has been testimony indicated criminal proclivity on the part of Mr. Parness.

Isn't that correct?

MR. DOWD: That's correct, your Honor.

THE COURT: That's all I think it is, and you certainly can make a statement, too, on behalf of your clients, and you are not bound either to prove anything or disprove it.

MR. COHN: Your Honor, I know, but it is all coming in, and that is all well and good, but what I am trying to say here is, as I understand it, these things were to show that back at that time what the inquiry was, and something we haven't talked about in this room yet: other sources, sources of money for the loan to Goberman other than Goberman's own money, so to speak.

Now, here are three people who furnished affidavits, one of them a lawyer. Whether there is some immaterial or material variance in a date or whether it was a loan or an

investment, the sum total of the matter, they were outside funds which Mr. Parness got and had at that time.

Now, your Honor --

THE COURT: You can tell me that.

MR. COHN: Sure -- which is the exact purpose here.

Now they come in and instead of putting on these people, after specifying false affidavits, they put on an agent who interviewed these people, had them before the grand jury, but they don't call them here at this hearing.

THE COURT: You can say that, too. You have already said it, and he has taken it down on the record.

Now, one thing that I haven't seen: this earlier deCarlo business. What is that?

MR. COHN: That's out on the table. I am ready to talk about that.

THE COURT: What about that? I would like to see that, and I haven't seen it.

MR. COHN: Your Honor, I have read it. I can object to it, of course, on the ground, first of all, of remoteness and secondly, due to my own ignorance, I don't know the significance of deCarlo -- I know it is not the deCarlo I know.

THE COURT: This is Gyp de Carlo.

MR. COHN: Who is Gyp deCarlo?

THE COURT: You don't know Gyp deCarlo?

MR. COHN: Despite the wide range of my practice, I haven't encountered Gyp deCarlo. I assume he is not testiying here.

MR. DOWD: Yes. He died just recently.

MR. COHN: Now, your Honor, two things I see here: One of them apparently is a statement by a man named Ray saying, "I did loan Milton Parness" --

THE COURT: Which do you want me to look at?

MR. COHN: One of them says -- a statement by a man named Ray, whoever he may be, saying, "I am not a loan shark, but I did lend Milton Parness $10,000."

THE COURT: "Ray: I'm not in the Shylock business. I got a few thousand dollars out with Milton Parness, ten thousand dollars I loaned him, and that's all."

Do you know who Ray is?

MR.DOWD: Yes. That's Gyp deCarlo.

MR. COHN: So whoever this man is, I assume a bad person loaned Parness ten thousand dollars.

MR. DOWD: He put money out.

MR. COHN: No. he says, "I loaned him ten thousand dollars."

THE COURT: Let's just relax.

MR. COHN: Now, the next thing seems to be some kind of discussion of what business expenses are and allowable and Internal Revenue audits and what you charge off and don't charge off.

THE COURT: All right. The next thing is during the evening of June 22, '61, Ray and Milton Parness discussed income tax; is that right?

MR. DOWD: Yes, your Honor.

THE COURT: And on the next page --

MR. DOWD: A discussion between the two of them.

THE COURT: Milton Parness: "I paid the Government on fifteen thousand last year.

Ray: "I paid on 39,000 and only gave them 3,200."

This sounds like things I have been reading in the newspapers.

Milton: "You must have had nine thousand in deductions."

Ray: "Thirteen thousand deductions, and that was only interest."

MR. COHN: This is 1961?

THE COURT: Yes. 1961.

All right. I am going to put it all in the record.

Milton Parness said, "To hell with them. I'm

perfectly -- I don't write no checks, no nothing."

Now, let's see what else.

Milton: "I've been paying on thirty-five to forty thousand dollars for ten years, twelve years. You ought to be able to live on that. I write checks for the bills in the house. When I go any place, I go with cash, and I don't even keep the cash in that bank. I keep it some place else."

Milton: "If whoever you say loaned you the money goes along with it, there's nothing they can do about it, and you don't have to show you borrowed it until after they make the charge against you and you know exactly what it is. That's all you have to go out and show."

Milton: "You know how much I spend a year? I bet I spend sixty, seventy thousand dollars a year. If I ever tried to live on what I make that's legitimate, I couldn't do it. I would be in hock every year."

Is that about the end of this?

MR. DOWD: That's correct, your Honor.

THE COURT: That's about the end of this.

All right. Fine. Well, I've got that. Let's finish up with this, then.

MR. COHN: Your Honor, I just want to make an objection on the ground of a twelve-year-old conversation such as this --

THE COURT: It's a long time, but it does indicate a lack of desire to play fair with the income tax authorities. There isn't any question about that.

MR. COHN: Well, maybe it is certainly subject to that interpretation. As your Honor commented, there have been a number of reports on that rather recently on a line that I don't think establishes criminal conduct. When you take a conversation with a man who is now dead, twelve years ago, this is pretty tough stuff to be talking about in a sentence twelve years later. During the intervening period, when the man is --

THE COURT: Well, it has some application, obviously. It might have more application if this were a tax case. I am not saying --

MR. DOWD: Your Honor, when you combine it with the two prior convictions and the release from the sentence in the whole period from '61 to '73 he has been engaged in such conduct.

MR. COHN: Well, you talk about two prior convictions, but the two prior convictions were part of the same series of transactions. They were not separable convictions. It was part of the same group.

Granted, the motion for double jeopardy was overruled because there were two differently traced charges

under two different sections --

MR. McGUIRE: Yes, your Honor; there were two different transactions, each with a million dollars in stolen securities.

MR. COHN: Well, I don't know that the million dollars --

THE COURT: This awesome responsibility is on me, and I will do the best I can.

Let's go ahead and finish up.

(In open court:)

MR. COHEN: I have nothing further, your Honor.

REDIRECT EXAMINATION

BY MR. DOWD:

Q Mr. Glase, earlier, did I ask you whether Mr. Zuckerman stated he was going to provide an affidavit of Ida Cohen?

A Yes; he said he was going to.

Q Did he provide one? Did he ever provide one, sir?

A No, sir.

MR. COHN: An affidavit of what? I am sorry.

MR. DOWD: An affidavit of Ida Cohen.

MR. COHN: Did Mr. Zuckerman say he was going to provide an affidavit of Ida Cohen?

MR. DOWD: That's right.

THE COURT: He didn't provide it. Nobody knows whether he ever asked Ida Cohen for an affidavit.

MR. DOWD: Well, I want to ask him one additional question on that point, your Honor.

Q Mr. Glase, did you inquire of Mr. Zuckerman as to whether he would have an affidavit of Ida Cohen?

A Yes.

Q And what was Mr. Zuckerman's response?

A He said he talked to her, and he wasn't going to furnish an affidavit, that she had nothing additional to add.

MR. COHN: She had nothing additional to add?

I have no questions.

THE COURT: Any other questions?

Thank you. You are excused.

(Witness excused.)

MR. DOWD: I call Mr. Mozolak to the stand, please.

E M I L P . M O Z O L A K , called as a witness by the Government, being first duly sworn, testified as follows:

MR. DOWD: Will you mark these, please.

(Government's Exhibit 14 marked for identification.)

DIRECT EXAMINATION

BY MR. DOWD:

Q Mr. Mozolak, what is your occupation, sir?

A I am a United States Probation Officer.

Q In what district, sir?

A The District of New Jersey.

Q And how long have you been a probation officer, sir?

A Since 1956.

Q And do you know the defendant Milton Parness, Mr. Mozolak?

A Yes, sir.

Q Did there come a time when Mr. Parness was under your supervision?

A Yes.

Q And can you recall when that took place?

A Yes. He was placed on mandatory release -- mandatory release and placed under my supervision in June of 1969.

Q He was released from a Federal penitentiary; is that correct?

A Yes. Lewisburg. That's right.

MR. DOWD: Excuse me a moment, your Honor.

I offer Exhibit 14 in evidence.

MR. COHN: Your Honor, I don't object to any of this.

THE COURT: All right.

(Government's Exhibit 14 for identification was received in evidence.)

Q Mr. Mozolak, is that the certificate of mandatory release?

A Yes; this is a certificate of mandatory release authorizing Milton Parness' release on June 4, 1969.

Q And are there conditions of that release on the back, sir?

A Yes. There are twelve general conditions.

Q Is one with respect to monthly supervision reports?

A There is a condition entitled "Condition 5". "You shall make a complete and truthful written report on a form provided for that purpose to your probation officer between the first and third day of each month, and on the final day of supervision. You shall also report to your probation officer at other times, as he directs."

Q Mr. Mozolak, when did Mr. Parness' supervision expire, sir?

A On February 26, 1971, according to the document.

Q Mr. Mozolak, I hand you, which is part of Exhibit 14, twelve reports, monthly supervision reports, and ask you if you can identify those, sir.

A These are written monthly reports submitted by Milton Parness, initialed by myself as his assigned officer.

MR. DOWD: May I submit these for the Court's consideration?

Q I hand you two exhibits, which are letters from Mrs. Landau with respect to Milton Parness, and ask you if you received those documents, sir.

A These are letters addressed to me at my office in Newark from Mrs. Barbara Landau, Mrs. B. Landau, president of Travel Time, who I understood at that time was Mr. Parness' employer.

Q The last five documents as part of Exhibit 14 are permission to travel slips. I ask you if you recognize those.

A Yes. These are --

Q When are they dated, sir?

A There are two -- there are four travel forms dated December 14, 1970, January 7, 1971, January 19, 1971 and January 22, 1971.

Q Are these documents granting Mr. Parness travel to St. Maartens as an employee of Travel Time?

A Yes.

Q And were those permissions to travel based on requests by Mr. Parness to travel?

A Yes.

Q There is a letter here. I wish you would describe it for us.

A This is a letter dated January 12, 1971, signed by me, addressed to Mr. James R. Pace, Parole Executive,

United States Board of Parole, 101 Indiana Avenue, N. W., Washington, D. C.

Do you want me to read the letter?

A No.

A The letter is passing on Mr. Parness' request that he be permitted to travel to St. Maarten in order to conduct tours for his employer, Travel Time Agency, January 20th to January 21, 1971 and February 10th to February 15, 1971.

Q Mr. Mozolak, was Mr. Parness under your supervision during the entire period of June 4, 1969 to February 26, 1971?

A Yes, sir.

Q At any time during that supervision, especially during the year 1970 and 1971, did you ever hear of Olympic Sports Club?

A No, sir.

Q From Mr. Parness or Mrs. Landau?

A No, sir.

Q Did you know that Mr. Parness had an office at 1650 Broadway, here in New York?

A I did not.

Q Did you know that Mr. Parness, starting in about September 1970, controlled all the gambling junkets from the United States to the St. Maarten Isle Hotel Casino?

A No, sir.

Q Did you know that beginning after September 1970, that Mr. Parness had control of the St. Maarten Isle Hotel Casino in the Netherland Antilles?

A No.

MR. DOWD: I have no further questions.

MR. COHN: Your Honor, in view of the nature of the hearing, I didn't object to the control business.

CROSS-EXAMINATION

BY MR. COHN:

Q Mr. Mozolak, let me ask you this -- let me put it to you this way, as you right out: What was wrong? Is there something you are contending was wrong --

THE COURT: He is not contending.

A I am not contending anything.

THE COURT: He is just reporting what information he had. He is not mkaing any contentions.

Q You were told that Mr. Parness was running tours to St. Maarten; is that correct?

A Yes, sir.

Q And you were told about Travel Time?

A Yes, sir.

Q Did you consider it a material fact to you whether there was an office at 1650 Broadway in New York?

A I don't know how to answer that.

MR. COHN: I don't know if I would, either.

Q And did Mr. Parness file his regular reports, as he was supposed to?

A Yes, sir.

Q Each month?

A Yes, sir.

Q And when he wanted to leave or take a trip some place outside the jurisdiction, he would communicate with you?

A He requested that permission.

Q And asked permission; is that right?

A Yes, sir.

Q And returned when he was supposed to; is that right, as far as you know?

A As far as I know; yes, sir.

Q And when he was next supposed to be in touch with you, he was in touch with you?

A Yes, sir.

Q Are there any complaints at all about the regularity of his meeting his commitments to you?

A No, sir.

Q Now, with reference to Mr. Dowd's last questions about gambling and about the tours going to a place where there was gambling and Mr. Parness' connection with the tours

being involved in gambling, do you know that gambling in St. Maarten is legal?

A Do I know that?

Q Yes.

A I believe it is. I don't know it as a matter of fact.

Q Gambling you do know, of course, in certain places in the United States is legal?

A I do know that.

Q Did any probationers of yours or people on parole ever obtain positions with the Off-Track Betting or whatever the equivalent is in New Jersey?

A I've never known any, sir.

Q They might not be eligible because of the conviction; is that right?

A Yes. I think that there probably would -- that probably would have some effect on their eligibility. But whether they have achieved that I couldn't say.

Q I think there is some licensing requirement or something along that line.

MR. COHN: I have nothing further.

REDIRECT EXAMINATION

BY MR. DOWD:

Q Mr. Mozolak, was it a material fact, if known to

you, that Mr. Parness was engaged in running gambling junkets?

A I would have reported that fact to the Parole Board, and it might have had some effect on their decision to allow him to travel.

THE COURT: You would have to report it?

THE WITNESS: I would have to report it. If he were engaged in gambling, I would have reported it.

Q Would you have approved his travel to the island if you had known he was running gambling junkets, controlling them?

A As a matter of fact, the Board of Parole has that authority. I am an agent of the board, and I simply report the facts and perhaps recommendations, but I don't have the power to either give or deny that permission.

Q I understand that. I am asking you what your recommendation would be.

MR. COHN: What his recommendation would have been if --

MR. DOWD: If he had known that Mr. Parness was controlling all the gambling junkets from the United States and controlling the casino.

THE COURT: Let's not get into that.

MR. COHN: There is no evidence of that, your Honor.

THE COURT: I sustain the objection to that. I don't think the witness could answer that.

I think it would be fair to say, Mr. Mozolak, that if you had information from somebody who is paroled that he was engaged in gambling activities outside of the United States, that would be something that you would want to bring up to the Parole Board; isn't that fair to say?

THE WITNESS: That's right, your Honor.

THE COURT: That would be something you would make a point of bringing up to the Parole Board?

THE WITNESS: Certainly.

THE COURT: But you were never informed about this case, so you didn't?

THE WITNESS: That's right.

RECROSS-EXAMINATION

BY MR. COHN:

Q You would be concerned with somebody who was on probation -- well, he wasn't on probation; he was on mandatory release -- who was engaged in any kind of illegal activities?

A I would be interested in any activity, legal or illegal. Any activity that he is engaged in.

Q Is there any kind of a prohibition that exists, either by written regulation or practice, against the conducting of tours to a place where there is gambling and being

involved in the gambling operation to which the tours are sent, provided the gambling is legal? Is there any such rule against that in your department?

A Well, the rules which govern his release are in the back of the document that was just put into the record, and they make no reference to the point thatyou made.

MR. COHN: I have no further questions, your Honor.

THE COURT: All right. Do you have any further questions, Mr. Dowd?

MR. DOWD: Nothing further, your Honor.

THE COURT: All right.

Thank you. You are excused.

(Witness excused.)

MR. DOWD: We have nothing further.

THE COURT: Do you have anything to offer, Mr. Cohn?

MR. COHN: No, your Honor.

THE COURT: All right. Then we will take a five-minute recess and proceed with the sentence.

(Recess.)

(In the absence of the Court.)

MR. DOWD: Exhibit 15 is a memorandum of interview with Philip Casella, dated April 17, 1973.

This is a memorandum of interview with Jeffrey

Vail, April 25, 1973.

Transcript of an interview, April 18, 1973 with Judith Amsterdam.

(Government Exhibits 15 and 16 received in evidence.)

(Recess.)

THE COURT: Gentlemen, I would like now to proceed to the sentencing of Mr. Milton Parness. Both the Government and Mr. Parness' attorney, Mr. Cohn, have had an opportunity, I believe, to see the pre-sentence report. Is that correct?

MR. COHN: We have, your Honor.

THE COURT: All right. And I have also heard the additional evidence the Government has brought out this afternoon, and I will consider that in connection with the sentencing.

With that, Mr. McGuire, is there anything further you would like to see in connection with the sentencing?

MR. McGUIRE: Well, your Honor, I think we have made the Government's position rather clear in connection with the papers that we have submitted so far. This is that rare case in which the Government has contended that the defendant, by virtue of his peculiar talents, background and abilities, is a dangerous special offender and ought to be sentenced as such.

I am not going to belabor the point, your Honor, but of course we will answer any questions.

THE COURT: Thank you. All right, Mr. Cohn.

MR. COHN: Your Honor, I am going to address myself principally to what happened this afternoon, because your Honor presided at the trial and is familiar with the nature and circumstances of the offense, and I don't propose to re-argue that at this point.

In addition, I again took the liberty of sending your Honor a letter with reference to Mr. Parness, so you would have the opportunity to consider that without having it hit you at the very last minute, which is something I like to do.

With reference to what was adduced here this afternoon, the Government put in three specifications. One was these tapes, which go to 1961 with Mr. deCarlo, whoever he is -- not "is" but was, apparently, and the two conversations, one in which somebody loaned Mr. Parness $10,000, and the other the discussion which your Honor read concerning income taxes, which assumes all sorts of phases and proporations, as two people, any two people -- maybe not any two people, but a lot of people would discuss it in 1973. This happened in 1961, twelve years ago, and I would suggest from the standpoint of its age, manner of preparation and tie-in to

to the circumstances of this case, its probative value is very, very slim.

With reference to the business concerning which Agent Glase testified, these affidavits that were submitted, your Honor said you would be kind enough to hear me.

Now, as I understand it, what we are talking about is this: Mr. Zuckerman, a lawyer Mr. Parness has in New Jersey in connection with the tax matter, was showing the source of funds to Mr. Parness other than from Mr. Goberman or from marker collections. Indeed, the fact is that the proof had risen to certain proportions. We had to make a trial decision during the trial before your Honor: when you can show the source of X dollars but you cannot show the source of all the money without putting a defendant with a record on the witness stand, do you start the whole thing going and stop at the point where the defendant has to talk about the currency, and you can't put only the defendant, and you can't put him on the witness stand?

That was a decision Mr. Rosen and I had to make based upon what we had available. It might have made a difference if we had had available then what we have available now and what we have heard this afternoon, but, be that as it may, these affidavits were submitted, one from a lawyer and two from other people. The people were called before the

grand jury.

Now, the purpose of this afternoon's proceedings, as I understand it, your Honor, is to say that in some way these affidavits were false because they are contradicted by entries made by Mrs. Cohen or somebody else in the books.

THE COURT: Well, I don't think that is the issue. The only issue before me, as I understand the position of the Government here, is that the introduction of this testimony this afternoon is something that I ought to have in mind in consideration of sentence.

I don't think the Government is asked to prove it or you to disprove it.

MR. COHN: I appreciate that, your Honor. I was going to say this:

The actual impact of these affidavits, standing as they are now, is that of course it goes against the Government's case insofar as the funds loaned to Goberman being Goberman's money because of the obvious fact that a substantial portion of these moneys concerning which the Government introduced these affidavits today went to Mr. Parness at exactly the time just prior to the time he gave the money to Goberman.

You have the $26,000 to Travel Time, which comes right out on Travel Time's books and out to Olympic and back

as the deposit slip shows, back to Travel Time. You've got the Vail transaction of the $5,000, and of course there was the $5,000 check before your Honor.

So, if anything, taken as the state of the record now goes, that seems to work the other way.

So I would respectfully suggest to your Honor and urge your Honor that nothing rising to the dignity that this very unusual statute -- I don't know if there has been such a hearing before -- I had something like this before Judge Frankel, who took a rather strong view on the subject and didn't allow in anything on the ground that he wasn't going to take hearsay or what somebody said a number of years ago, that if they were going to use these kinds of things on sentence, they were going to have to conform with areas of proof which the Court could act upon in making an important determination and that he chose just to disregard them and look at the nature and circumstances of the particular offense before him and the probation report, dealing as it does with the defendant's prior record, as well as what progress the defendant has made since that period of time, what his family circumstances are.

Now, your Honor, the final word I really want to say about it is this:

I realize the defendant has a prior record. I

realize the dispute as to, whether bifurcated into one or two -- and, of course, his conviction in this court was on the conspiracy count, the jury not having convicted him in the prior case on any of the substantive counts, and he received what seemed to be an enormously severe sentence. But we are not here to re-argue that. The fact of the matter is, your Honor, that since that period of time, the defendant has married; he has a family. I know your Honor has heard from some people in the community. The man is now fifty-five years of age, and the pattern he shows is what your Honor has to deal with right now, which certainly seems to be one of an extremely substantial improvement and something which makes him now, under his new circumstances, not somebody where the interests of society are being served by slapping him back in jail, particularly under the facts and circumstances of this case.

Now, your Honor, under the facts and circumstances of this case, as I said in the letter, if you were dealing with a civil case, I suppose I would have had an easier time than I did with the criminal case, where I couldn't put the man on the stand. It's the first case under this statute, and in reading the statute and what little there is under it, I just can't believe that the special interdictions of relying upon the contingent factors that have to be proved before

the statute becomes applicable and the name Congress placed upon it of anti-racketeering fit the facts of this case.

Now, racketeering may mean something bad. In the days when you talk about organized crime, drug traffic and things like that -- that just hasn't been proven or even suggested in the facts of this case. What at maximum is suggested in the facts of this case is that Parness took Goberman and paid the money apparently at the end -- That's the way the Government's case came out -- to the casino under circumstances where bills were paid rather than the money being made available to Goberman to reclaim his $150,000 Holzer note, with which Parness had absolutely nothing to do in the first place.

So Mr. Parness' good fortune in all of this was to have ended up with a bankrupt hotel, which he was ultimately unable to keep going, which has now been foreclosed upon by the Bank of Nova Scotia and is now a closed item.

Mr. Parness' obvious interest was the junkets, the package deals and their relationship to the casino, and for that the optimum situation for him was to have somebody else operating a hotel, as this business customarily works, not the person who is sending the junkets down to the casino.

So looking at the conduct in this case, as I know your Honor will look at it, and seeing that this is not a

case where there was violence, where somebody was hurt, where drugs are involved, where something of violence is involved, something that we ordinarily talk about when we use the word "racketeering" and talk about some of the interdictions of the organized crime bill -- it just doesn't seem to rise to the dignity of something there, and it seems to me that is something which your Honor basically has to go on here.

Now, your Honor, there is another thing. I have observed this, and probably your Honor has, too: the man has always been completely attentive to court mandates. He never has missed an appearance anyplace. He is to the minute of time; when he is obligated to do something, he does it with meticulous care, and, as a matter of fact, the probation officer who testified here this afternoon demonstrated the fact that every report required to be filed -- and I have had complaints from probation officers who don't get this degree of regularity from people -- they should, and they deserve it -- but in this case never was a report missed, and the only dispute apparently is whether Mr. Parness didn't go off outside the jurisdiction but went and asked permission.

You know, an interesting thing: I don't know if your Honor caught this. All of these trips in which the permission was requested were within the last thirty days

before his mandatory release period expired, but he went, and he asked these permissions and said he was goin- to St. Maarten on the tours, and to say that there is any dire significance in the fact that it didn't go on, to say the places to which the tours go are these casinos and that the people who go there gamble, when that is a legal and perfectly proper activity down there, to say nothing of up here -- if it were an illegal activity or something along those lines, I could understand the cogency of that, and absent any regulation to say that Mr. Parness should have gone further than he did, your Honor, I think is holding him for something which a rule doesn't require, which a regulation doesn't require and which if it had come in, probably in the last thirty days of his mandatory release, would have had absolutely no significance anyway.

He disclosed the exact location, the fact that he was running tours, taking tours down there, and I think it certainly is hair splitting to go on from there.

I realize that your Honor has a difficult situation. All of these things are extremely difficult situations. You have a man who is not young here. You have a new family situation to deal with, and you have the nature and circumstances of this new statute and this case under it.

There is nothing more I really can say except to

rest this on your Honor's fairness.

THE COURT: Thank you, Mr. Cohn.

Mr. Parness, is there anything you would like to say to me, any facts you would like to bring to my attention before sentence is imposed upon you, sir?

DEFENDANT MILTON PARNESS: No. Thank you, your Honor.

THE COURT: I received a letter from you dated yesterday, I believe, and I received a letter from Mr. Cohn dated yesterday also.

MR. COHN: Yes, your Honor.

THE COURT: I have read these. I have also received a number of letters, I think, including two letters from your stepchildren, Cindy and Barry. Is that right?

DEFENDANT MILTON PARNESS: Yes.

THE COURT: And also various friends, and I have read all these letters, and, needless to say, the family situation is an important element, but the crime is a serious one.

Mr. Parness, according to the report here, you were convicted in the Federal Court in Newark in 1962 of conspiracy to transport stolen securities in interstate commerce; is that correct, sir?

DEFENDANT MILTON PARNESS: That's right.

THE COURT: And on that you were sentenced to five years, and it was reduced in '64 to four years; is that correct?

DEFENDANT MILTON PARNESS: Yes, sir.

THE COURT: And then, in 1963, you were convicted in this court of conspiracy and transportation of stolen securities in interstate commerce. I think that was before Judge Wyatt; is that correct?

DEFENDANT MILTON PARNESS: Yes, sir. That was more or less the same people.

THE COURT: The same people, but different securities, I take it.

DEFENDANT MILTON PARNESS: Well, yes and no. The double jeopardy thing was in there.

THE COURT: Well, I understand that, but, be that as it may, you were sentenced by Judge Wyatt to four years, and then that was reduced to three years; is that correct?

DEFENDANT MILTON PARNESS: Yes, sir.

THE COURT: -- which ran consecutively with your New Jersey sentence.

It is very sad to me, Mr. Parness, that after that history you should be here again. But, as I said earlier, I gave you just as fair a trial as I could. I think the evidence was adequate for the jury to reach the verdict which

they did reach, and they found you guilty of devising a fraudulent scheme here to obtain this hotel down in St. Maarten from Goberman, and the evidence on these counts I think is fairly strong.

The defendant will be committed to the custody of the Attorney General or his duly authorized representative for imprisonment for a period of ten years on Count 1, Count 4 and Count 5 and 6 of the indictment, the sentences to run concurrently. In addition, the defendant will be fined $25,0-0 on Count 1, $10,000 on Count 5, $10,000 on Count 5 and $10,000 on Count 6, a total fine on all four counts of $55,000.

Now, Mr. Parness, as you know, you have an absolute right of appeal here from the judgment of the Court, and you are entitled to a lawyer on your appeal, and, as I told Mrs. Parness, if you can't afford a lawyer, a lawyer will be provided for you.

All right.

MR. COHN: Your Honor, will your Honor continue bail as to Mr. Parness in the present amount, conditioned upon our -- We do intend to appeal.

MR. McGUIRE: May I be heard on that, your Honor?

THE COURT: Well, first, if you intend to appeal, you will have to file the notice within ten days.

MR. COHN: It is the first case under the statute, and I am not going to argue the point or Mr. Parness' obedience to the Court's direction, which will continue, and the very substantial amount of bail which is posted, your Honor.

THE COURT: What is the present bail?

MR. COHN: It is $150,000, your Honor.

MR. McGUIRE: Your Honor, the Government would respectfully move for this defendant's remand, in view of the size of the sentence, the demonstrated contacts that this defendant has in foreign countries, and particularly the danger to the community that this man's continued presence at large has been shown to be.

THE COURT: I don't know about that. I don't think I will continue the bail. I think it's got to be rewritten, but I think I will fix bail on appeal at the same amount: $150,000. I will make a provision that Mr. Parness will not leave the Southern District of New York or the District of New Jersey without making application to the United States Attorney, and it will be conditioned, of course, you understand, on the prosecution of the appeal with all due speed.

MR. McGUIRE: Your Honor, would the Court consider a program of regular reporting by Mr. Parness in person during the period of the pendency of appeal as a condition of

bail?

THE COURT: Well, I think Mr. Parness has had some experience in that. I heard from the probation officer this afternoon. If the Government thinks they would like that, I would be willing to provide that he would report -- or communicate, not report, not come physically.

MR. McGUIRE: Your Honor, we are terribly concerned, frankly, in view of the size of the sentence and the defendant's age and contacts, that he will not be around to serve it.

THE COURT: Well, I will say that Mr. Parness has appeared before me always very promptly. We have never had any problems.

I will ask you, Mr. Parness: do you promise to appear whenever you are required to appear?

DEFENDANT MILTON PARNESS: Yes, your Honor.

THE COURT: And you promise that you will not leave New Jersey or the Southern District of New York without informing the United States Attorney?

DEFENDANT MILTON PARNESS: I have never done it before. I have never left, and I never will.

MR. McGUIRE: Your Honor, may we ask that the defendant be required to report weekly to the office of the United States Attorney?

THE COURT: Well, what I think I will do is to ask him to report weekly to Mr. Cohn.

MR. COHN: If I do not hear from him in any one week, I will immediately notify Mr. McGuire.

THE COURT: All right. Notify the Government.

I think I will leave it with that. One thing about it: I have been impressed, Mr. Parness, that you have been faithful in your attendance, and the other thing that I want to leave with you is that in these matters, difficult as they are, I try to put my faith in human beings, and so far I have been very lucky in that. But if anybody does betray that faith, then of course I will have to do it to somebody else, who might also have a family and family problems. So I will ask you to think about that.

What was Mrs. Parness' bail status?

MR. McGUIRE: I believe she was released on $50,000 bail on the original indictment, your Honor.

MR. COHN: I think it was a personal recognizance bond. I think it was reduced by Judge Palmieri.

THE COURT: I have here, a $10,000 personal recognizance bond.

Do you promise me that you will appear at all times when you are required to do so, Mrs. Parness?

DEFENDANT BARBARA PARNESS: Yes.

MR. McGUIRE: Your Honor, the bail on both these indictments is obviously going to have to be rewritten. The situation is this: the defendant Milton Parness is currently free on $150,000 surety bond, which was posted in connection with the original indictment in this case. The defendant has now been convicted on a superseding indictment, and up to the present time he has been released on his own recognizance in connection with that superseding indictment.

I suggest that it is proper under the circumstances for bail to be rewritten on the superseding indictment, 73 Cr 750, in the amcunt of $150,000.

THE COURT: The original $150,000 bond is outstanding?

MR. McGUIRE: The bond is outstanding on an indictment --

THE COURT: I understand that.

MR. McGUIRE: That is no longer active.

THE COURT: It will be rewritten for this appeal in the same amount.

How long do you want, Mr. Cohn, to rewrite it?

MR. McGUIRE: We would suggest until Monday afternoon.

MR. COHN: No objectionto that. No problem with that.

THE COURT: And as far as Mrs. Parness is concerned, can she have a $10,000 personal recognizance bond on appeal?

MR. COHN: Sure.

MR. McGUIRE: There is no reason why not, but that would have to be rewritten as well.

THE COURT: All right. That will be rewritten on the same basis.

MR. COHN: Thank you, your Honor, and good afternoon.

MR. McGUIRE: Your Honor, Mr. Kusnitzoff from the probation office has reminded me of a nicety which I had forgotten. The period of probation, unless specifically stayed, runs from the date of conviction, that is, the date of judgment, so I understand, rather than from the date of --

THE COURT: Well, if it does, I will stay it. I am staying the sentence pending the determination of her appeal, and that will include staying the commencement of the probation.

MR. McGUIRE: I thought that was your Honor's intention, but I wanted the record to be clear on that.

THE COURT: All right. Thank you.

MR. McGUIRE: Your Honor, has the Court made a determination that the defendant Milton Parness is a

dangerous special offender?

THE COURT: I have heard the testimony, and I have sentenced the defendant according to my best lights, Mr. McGuire, and I am not making any further determination at this time.

MR. McGUIRE: Thank you, your Honor.

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